

## 2006 CRIMINAL CODE INDEX (2006 INDICE DE CÓDIGO DE PENAL)

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## **ALCOHOL OFFENSES**

### **Possession of Alcohol By a Minor**

#### **7.1-5-7-7 Illegal possession**

(a) It is a Class C misdemeanor for a minor to knowingly:

- (1) possess an alcoholic beverage;
- (2) consume it; or
- (3) transport it on a public highway when not accompanied by at least one (1) of his parents or guardians.

(b) If a minor is found to have violated subsection (a) while operating a motor vehicle, the court may order the minor's driver's license suspended for up to one (1) year. However, if the minor is less than eighteen (18) years of age, the court shall order the minor's driver's license suspended for at least sixty (60) days.

(c) The court shall deliver any order suspending the minor's driver's license under this section to the bureau of motor vehicles, which shall suspend the minor's driver's license under IC 9-24-18-12 for the period ordered by the court.

### **Parent Taking Child Into Tavern**

#### **7.1-5-7-9 Parent taking child into tavern prohibited**

(a) It is a Class C infraction for a parent, guardian, trustee, or other person having custody of a child under eighteen (18) years of age to take that child into a tavern, bar, or other public place where alcoholic beverages are sold, bartered, exchanged, given away, provided, or furnished.

(b) It is a Class C infraction for a permittee to permit the parent, guardian, trustee, or other person having custody of the child under eighteen (18) years of age to be in or around the prohibited place with the child.

### **Minor in a Tavern**

#### **7.1-5-7-10 Minors in taverns prohibited**

(a) It is a Class C misdemeanor for a minor to recklessly be in a tavern, bar, or other public place where alcoholic beverages are sold, bartered, exchanged, given away, provided, or furnished. In addition to other penalties under this subsection, the minor's driver's license shall be suspended for up to one (1) year in accordance with IC 9-24-18-8 and IC 9-30-4-9.

(b) It is a Class C misdemeanor for a permittee to recklessly permit a minor to be in the prohibited place beyond a reasonable time in which an ordinary prudent person can check identification to confirm the age of a patron.

### **Exceptions to IC 7.1-5-7-9 and 7.1-5-7-10**

#### **7.1-5-7-11 Exception for certain public places**

(a) The provisions of sections 9 and 10 of this chapter [7.1-5-7-9 and 7.1-5-7-10] shall not apply if the public place involved is one (1) of the following:

- (1) Civic center.
- (2) Convention center.
- (3) Sports arena.
- (4) Bowling center.
- (5) Bona fide club.
- (6) Drug store.
- (7) Grocery store.
- (8) Boat.
- (9) Dining car.
- (10) Pullman car.
- (11) Club car.
- (12) Passenger airplane.
- (13) Horse racetrack facility holding a recognized meeting permit under IC 4-31-5.
- (14) Satellite facility (as defined in IC 4-31-2-20.5).
- (15) Catering hall under IC 7.1-3-20-24 that is not open to the public.
- (16) That part of a hotel or restaurant which is separate from a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink.
- (17) Entertainment complex.
- (18) Indoor golf facility.
- (19) A recreational facility such as a golf course, bowling center, or similar facility that has the recreational activity and not the sale of food and beverages as the principal purpose or function of the person's business.
- (20) A licensed premises owned or operated by an educational institution of higher learning (as defined in IC 20-12-15-1).
- (21) An automobile racetrack.

(b) For the purpose of this subsection, "food" means meals prepared on the licensed premises. It is lawful for a minor to be on licensed premises in a room in which is located a bar over which alcoholic beverages are sold or dispensed by the drink if all the following conditions are met:

- (1) The minor is eighteen (18) years of age or older.

- (2) The minor is in the company of a parent, guardian, or family member who is twenty-one (21) years of age or older.
- (3) The purpose for being on the licensed premises is the consumption of food and not the consumption of alcoholic beverages.

### **Public Intoxication**

#### **7.1-5-1-3 Public intoxication prohibited**

It is a Class B misdemeanor for a person to be in a public place or a place of public resort in a state of intoxication caused by the person's use of alcohol or a controlled substance (as defined in IC 35-48-1-9).

### **Operating a Vehicle While Intoxicated**

#### **9-30-5-1 Class C misdemeanor; defense**

(a) A person who operates a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol but less than fifteen-hundredths (0.15) gram of alcohol per:

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath;

commits a Class C misdemeanor.

(b) A person who operates a vehicle with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

- (1) one hundred (100) milliliters of the person's blood; or
- (2) two hundred ten (210) liters of the person's breath;

commits a Class A misdemeanor.

(c) A person who operates a vehicle with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body commits a Class C misdemeanor.

(d) It is a defense to subsection (c) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

#### **9-30-5-2 Class A misdemeanor**

(a) Except as provided in subsection (b), a person who operates a vehicle while intoxicated commits a Class C misdemeanor.



(b) An offense described in subsection (a) is a Class A misdemeanor if the person operates a vehicle in a manner that endangers a person.

### **9-30-5-3 Class D felony; previous convictions**

A person who violates section 1 or 2 of this chapter [9-30-5-1 or 9-30-5-2] commits a Class D felony if:

- (1) the person has a previous conviction of operating while intoxicated that occurred within the five (5) years immediately preceding the occurrence of the violation of section 1 or 2 of this chapter; or
- (2) the person:
  - (A) is at least twenty-one (21) years of age;
  - (B) violates section 1(b) or 2(b) of this chapter; and
  - (C) operated a vehicle in which at least one (1) passenger was less than eighteen (18) years of age.

## **TRAFFIC OFFENSES**

### **Driving Without a License**

#### **9-24-18-1 Driving without a license**

(a) A person, except a person exempted under IC 9-24-1-7, who:

- (1) operates a motor vehicle upon a highway; and
- (2) has never received a valid driving license;

commits a Class C misdemeanor.

(b) In a prosecution under this section, the burden is on the defendant to prove by a preponderance of the evidence that the defendant had been issued a driving license or permit that was valid at the time of the alleged offense.

### **Persons Exempt From 9-24-18-1**

#### **9-24-1-7 Exempt persons**

Sections 1 through 5 of this chapter do not apply to the following individuals:

- (1) An individual in the service of the armed forces of the United States while operating an official motor vehicle in that service.
- (2) An individual while operating:

- (A) a road roller
- (B) road construction or maintenance machinery, except where the road roller or machinery is required to be registered under Indiana law;
- (C) a ditch digging apparatus;
- (D) a well drilling apparatus;
- (E) a concrete mixer; or
- (F) a farm tractor or an implement of agriculture designed to be operated primarily in a farm field or on farm premises;

that is being temporarily drawn, moved, or propelled on an Indiana public highway.

(3) A nonresident who:

- (A) is at least sixteen (16) years and one (1) month of age; and
- (B) has in the nonresident's immediate possession a valid operator's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle in Indiana only as an operator.

(4) A nonresident who:

- (A) is at least eighteen (18) years of age; and
- (B) has in the nonresident's immediate possession a valid chauffeur's license that was issued to the nonresident in the nonresident's home state or country;

while operating a motor vehicle upon a public highway, either as an operator or a chauffeur.

(5) A nonresident who:

- (A) is at least eighteen (18) years of age; and
- (B) has in the nonresident's immediate possession a valid license issued by the nonresident's home state for the operation of any motor vehicle upon a public highway when in use as a public passenger carrying vehicle;

while operating a motor vehicle upon a public highway.

(6) A nonresident whose home state or country does not require the licensing of operators or chauffeurs and who has not been licensed as an operator or a chauffeur in the nonresident's home state or country as an operator if the nonresident is at least sixteen (16) years and thirty (30) days of age and less than eighteen (18) years of age or as a chauffeur if the nonresident is at least eighteen (18) years of age, for not more than sixty (60) days in any one (1) year if the following conditions exist:

- (A) The unlicensed nonresident is the owner of the motor vehicle or the authorized driver of the vehicle.
- (B) The vehicle has been registered for the current year in the state or country of which the owner is a resident.
- (C) The motor vehicle at all times displays a registration plate issued in the home state or country of the owner.
- (D) The nonresident owner or driver has in the owner's or driver's immediate possession a registration card evidencing ownership and registration in the owner's or driver's home state or country or is able at any required time or place to do the following:

- (i) Prove lawful possession or the right to operate the motor vehicle.
  - (ii) Establish the nonresident's proper identity.
- (7) An individual who is legally licensed to operate a motor vehicle in the state of the individual's residence and who is employed in Indiana, subject to the restrictions imposed by the state of the individual's residence.
- (8) A new resident of Indiana who possesses an unexpired driver's license issued by the resident's former state of residence, for a period of sixty (60) days after becoming a resident of Indiana.
- (9) An individual who is an engineer, a conductor, a brakeman, or another member of the crew of a locomotive or a train that is being operated upon rails, including the operation of the locomotive or the train on a crossing over a street or a highway. An individual described in this subdivision is not required to display a license to a law enforcement officer in connection with the operation of a locomotive or a train in Indiana.

### **Driving While License Suspended**

#### **9-24-19-1 Class A infraction**

Except as provided in sections 2, 3, and 5 of this chapter, a person who operates a motor vehicle upon a highway while the person's driving privilege, license, or permit is suspended or revoked commits a Class A infraction.

### **Driving While License Suspended With a Prior Suspension**

#### **9-24-19-2 Class A misdemeanor; commission within ten years of prior similar infraction**

A person who operates a motor vehicle upon a highway when the person knows that the person's driving privilege, license, or permit is suspended or revoked, when less than ten (10) years have elapsed between:

- (1) the date a judgment was entered against the person for a prior unrelated violation of section 1 of this chapter, this section, IC 9-1-4-52 (repealed July 1, 1991), or IC 9-24-18-5(a) (repealed July 1, 2000); and
- (2) the date the violation described in subdivision (1) was committed;

commits a Class A misdemeanor.

## **Driving While License Suspended Due to Conviction For a Criminal Offense**

### **9-24-19-3 Class A misdemeanor; commission while under suspension or revocation for offense**

A person who operates a motor vehicle upon a highway when the person knows that the person's driving privilege, license, or permit is suspended or revoked, when the person's suspension or revocation was a result of the person's conviction of an offense (as defined in IC 35-41-1-19) commits a Class A misdemeanor.

## **Duties of Driver of a Vehicle Involved in an Accident**

### **9-26-1-1 Duties of driver of vehicle involved in accident resulting in injury or death**

The driver of a vehicle involved in an accident that results in the injury or death of a person shall do the following:

- (1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.
- (2) Immediately return to and remain at the scene of the accident until the driver does the following:
  - (A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.
  - (B) Upon request, exhibits the driver's license of the driver to the following:
    - (i) The person struck.
    - (ii) The driver or occupant of or person attending each vehicle involved in the accident.
  - (C) Determines the need for and renders reasonable assistance to each person injured in the accident, including the removal or the making of arrangements for the removal of each injured person to a physician or hospital for medical treatment.
- (3) Immediately give notice of the accident by the quickest means of communication to one (1) of the following:
  - (A) The local police department if the accident occurs within a municipality.
  - (B) The office of the county sheriff or the nearest state police post if the accident occurs outside a municipality.
- (4) Within ten (10) days after the accident, forward a written report of the accident to the:
  - (A) state police department, if the accident occurs before January 1, 2006;  
or
  - (B) bureau, if the accident occurs after December 31, 2005.

### **9-26-1-2 Duties of driver of vehicle involved in accident resulting in damage to vehicle driven or attended by person but not resulting in injury or death**

The driver of a vehicle involved in an accident that does not result in injury or death of a person but that does result in damage to a vehicle that is driven or attended by a person shall do the following:

- (1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.
- (2) Immediately return to and remain at the scene of the accident until the driver does the following:
  - (A) Gives the driver's name and address and the registration number of the vehicle the driver was driving.
  - (B) Upon request, exhibits the driver's license of the driver to the driver or occupant of or person attending each vehicle involved in the accident.
- (3) If the accident results in total property damage to an apparent extent of at least one thousand dollars (\$1,000), forward a written report of the accident to the:
  - (A) state police department, if the accident occurs before January 1, 2006;  
or
  - (B) bureau, if the accident occurs after December 31, 2005; within ten (10) days after the accident.

### **9-26-1-3 Duties of driver of vehicle colliding with unattended vehicle**

The driver of a vehicle that collides with an unattended vehicle shall immediately stop and do one (1) of the following:

- (1) Locate and notify the operator or owner of the vehicle of the name and address of the driver and owner of the vehicle striking the unattended vehicle.
- (2) Leave in a conspicuous place in the vehicle struck a written notice giving the name and address of the driver and the owner of the vehicle doing the striking and a statement of the circumstances of the accident.

### **9-26-1-4 Duties of driver of vehicle causing damage to property other than another vehicle**

(a) The driver of a vehicle that causes damage to the property of another person, other than damage to a vehicle, shall do the following:

- (1) Immediately stop the vehicle at the scene of the accident or as close to the accident as possible in a manner that does not obstruct traffic more than is necessary.
- (2) Immediately return to and remain at the scene of the accident until the driver does the following:

- (A) Takes reasonable steps to locate and notify the owner or person in charge of the property of the damage.
- (B) Gives the person the driver's name and address and the registration number of the vehicle.
- (C) Upon request, exhibits the driver's license of the driver if the driver is required to have a driving license to operate the vehicle.

(b) If after reasonable inquiry the driver of the vehicle cannot find the owner or person in charge of the damaged property, the driver of the vehicle shall do the following:

- (1) Notify either the sheriff of the county in which the damaged property is located or a member of the state police department.
- (2) Give the sheriff or state police department the information required by this section.

### **Failure to Stop After an Accident**

#### **9-26-1-8 Failure to stop and remain at scene of accident resulting in injury or death; failure of driver to fulfill duties following collisions with unattended vehicles or other property; classification of violations**

(a) A person who fails to stop or comply with section 1(1) or 1(2) of this chapter [9-26-1-1 or 9-26-1-2] after causing injury to a person commits a Class A misdemeanor. However, the offense is:

(1) a Class D felony if:

- (A) the accident involves serious bodily injury to a person; or
- (B) within the five (5) years preceding the commission of the offense, the person had a previous conviction of any of the offenses listed in IC 9-30-10-4(a); and

(2) a Class C felony if the accident involves the death of a person.

(b) A person who fails to stop or comply with section 3 or 4 of this chapter [9-26-1-3 or 9-26-1-4] after causing damage to the property of another person commits a Class B misdemeanor.

## **VICTIM RIGHTS**

### **35-33-1-1.5 Crime involving domestic or family violence; duties of law enforcement officers; confiscation of firearm, ammunition, or deadly weapon**

Sec. 1.5. (a) A law enforcement officer responding to the scene of an alleged crime involving domestic or family violence shall use all reasonable means to prevent further violence, including the following:

- (1) Transporting or obtaining transportation for the alleged victim and each child to a designated safe place to meet with a domestic violence counselor, local family member, or friend.
- (2) Assisting the alleged victim in removing toiletries, medication, and necessary clothing.
- (3) Giving the alleged victim immediate and written notice of the rights under IC 35-40.

(b) A law enforcement officer may confiscate and remove a firearm, ammunition, or a deadly weapon from the scene if the law enforcement officer has:

- (1) probable cause to believe that a crime involving domestic or family violence has occurred;
- (2) a reasonable belief that the firearm, ammunition, or deadly weapon:

- (A) exposes the victim to an immediate risk of serious bodily injury; or
- (B) was an instrumentality of the crime involving domestic or family violence; and

- (3) observed the firearm, ammunition, or deadly weapon at the scene during the response.

(c) If a firearm, ammunition, or a deadly weapon is removed from the scene under subsection (b), the law enforcement officer shall provide for the safe storage of the firearm, ammunition, or deadly weapon during the pendency of a proceeding related to the alleged act of domestic or family violence.

### **35-40-5-1 Right to fairness, dignity, and respect**

A victim has the right to be treated with fairness, dignity, and respect throughout the criminal justice process.

### **35-40-5-2 Release or escape from custody of perpetrator**

- (a) A victim has the right to be informed, upon request, when a person who is:

- (1) accused of committing; or
  - (2) convicted of committing;
- a crime perpetrated directly against the victim is released from custody or has escaped.

(b) Whenever a person accused or convicted of committing a crime is released or escapes from the custody of a mental health treatment agency or a hospital that is not operated by a county sheriff or the department of correction, the court committing the accused or convicted person to the mental health treatment agency or hospital shall carry out this section to inform the victim of the release or escape. The mental health treatment agency or hospital shall provide the court with sufficient information about the release or escape to allow the court to carry out this section.

### **35-40-5-3 Right to confer with prosecuting attorney's office**

(a) This section applies if either of the following has occurred:

- (1) The alleged felony or delinquent act that would have been a felony if committed by an adult was directly perpetrated against the victim.
- (2) The alleged felony, misdemeanor, or delinquent act that would have been a felony or misdemeanor if committed by an adult was:

- (A) a violation of IC 35-42-2 (offenses against the person), IC 35-45-2-1 (intimidation), IC 35-45-2-2 (harassment), IC 35-46-1-15.1 (invasion of privacy), or IC 35-47-4-3 (pointing a firearm); and
- (B) directly perpetrated against the victim by a person who:

- (i) is or was a spouse of the victim;
- (ii) is or was living as if a spouse of the victim; or
- (iii) has a child in common with the victim.

(3) The alleged misdemeanor or delinquent act that would have been a misdemeanor if committed by an adult, other than a misdemeanor described in subdivision (2), was directly perpetrated against the victim, and the victim has complied with the notice requirements under IC 35-40-10.

(b) A victim has the right to confer with a representative of the prosecuting attorney's office:

- (1) after a crime allegedly committed against the victim has been charged;
- (2) before the trial of a crime allegedly committed against the victim; and
- (3) before any disposition of a criminal case involving the victim.

This right does not include the authority to direct the prosecution of a criminal case involving the victim.



#### **35-40-5-4 Consideration of victim's safety**

A victim has the right to have the victim's safety considered in determining release from custody of a person accused of committing a crime against the victim.

#### **35-40-5-5 Right to be heard at sentencing or release**

A victim has the right to be heard at any proceeding involving sentencing, a postconviction release decision, or a pre-conviction release decision under a forensic diversion program.

#### **35-40-5-6 Presentence reports**

(a) A victim has the right to make a written or oral statement for use in preparation of the presentence report.

(b) Notwithstanding IC 35-38-1-13, the victim has the right to read presentence reports relating to the crime committed against the victim, except those parts of the reports containing the following:

- (1) The source of confidential information.
- (2) Information about another victim.
- (3) Other information determined confidential or privileged by the judge in a proceeding.

The information given to the victim must afford the victim a fair opportunity to respond to the material included in the presentence report.

#### **35-40-5-7 Order of restitution**

A victim has the right to pursue an order of restitution and other civil remedies against the person convicted of a crime against the victim.

#### **35-40-5-8 Right to information about criminal case or perpetrator**

A victim has the right to information, upon request, about the disposition of the criminal case involving the victim or the conviction, sentence, and release of a person accused of committing a crime against the victim.

#### **35-40-5-9 Right to be informed of victim's rights**

A victim has the right to be informed of the victim's constitutional and statutory rights.

## **CRIMES AGAINST THE PERSON**

### **Chapter 1 - Homicide**

#### **Murder**

##### **35-42-1-1 Murder**

A person who:

- (1) knowingly or intentionally kills another human being;
- (2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct, kidnapping, rape, robbery, or carjacking;
- (3) kills another human being while committing or attempting to commit:

- (A) dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1);
- (B) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (C) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
- (D) dealing in a schedule V controlled substance; or

- (4) knowingly or intentionally kills a fetus that has attained viability (as defined in IC 16-18-2-365);

commits murder, a felony.

#### **Voluntary Manslaughter**

##### **35-42-1-3 Voluntary manslaughter**

- (a) A person who knowingly or intentionally:

- (1) kills another human being; or
- (2) kills a fetus that has attained viability (as defined in IC 16-18-2-365);

while acting under sudden heat commits voluntary manslaughter, a Class B felony. However, the offense is a Class A felony if it is committed by means of a deadly weapon.

- (b) The existence of sudden heat is a mitigating factor that reduces what otherwise would be murder under section 1(1) of this chapter to voluntary manslaughter.

## **Involuntary Manslaughter**

### **35-42-1-4 Involuntary manslaughter**

(a) As used in this section, "child care provider" means a person who provides child care in or on behalf of:

- (1) a child care center (as defined in IC 12-7-2-28.4); or
- (2) a child care home (as defined in IC 12-7-2-28.6);

regardless of whether the child care center or child care home is licensed.

(b) As used in this section, "fetus" means a fetus that has attained viability (as defined in IC 16-18-2-365).

(c) A person who kills another human being while committing or attempting to commit:

- (1) a Class C or Class D felony that inherently poses a risk of serious bodily injury;
- (2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or
- (3) battery;

commits involuntary manslaughter, a Class C felony. However, if the killing results from the operation of a vehicle, the offense is a Class D felony.

(d) A person who kills a fetus while committing or attempting to commit:

- (1) a Class C or Class D felony that inherently poses a risk of serious bodily injury;
- (2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or
- (3) battery;

commits involuntary manslaughter, a Class C felony. However, if the killing results from the operation of a vehicle, the offense is a Class D felony.

(e) If:

- (1) a child care provider recklessly supervises a child; and
- (2) the child dies as a result of the child care provider's reckless supervision;

the child care provider commits involuntary manslaughter, a Class D felony.

## **Reckless Homicide**

### **35-42-1-5 Reckless homicide**

A person who recklessly kills another human being commits reckless homicide, a Class C felony.

## **Chapter 2 - Battery and Related Offenses**

### **Battery**

#### **35-42-2-1 Battery**

(a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

- (A) it results in bodily injury to any other person;
- (B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of his official duty;
- (C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
- (D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; or
- (E) it is committed against a community policing volunteer:
  - (i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or
  - (ii) because the person is a community policing volunteer;

(2) a Class D felony if it results in bodily injury to:

- (A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of his official duty;
- (B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
- (C) a person of any age who is mentally or physically disabled and

is committed by a person having the care of the mentally or physically disabled person, whether the care is assumed voluntarily or because of a legal obligation;

- (D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;
- (E) an endangered adult (as defined in IC 12-10-3-2);
- (F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;
- (G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;
- (H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;
- (I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;
- (J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
- (K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; or
- (L) a community policing volunteer:

- (i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

- (ii) because the person is a community policing volunteer;

- (3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;
- (4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
- (5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
- (6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); and
- (7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2).

(b) For purposes of this section:

- (1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

- (A) probation officer;
- (B) parole officer;
- (C) community corrections worker; or
- (D) home detention officer.

## **Domestic Battery**

### **35-42-2-1.3 Domestic battery**

(a) A person who knowingly or intentionally touches an individual who:

- (1) is or was a spouse of the other person;
- (2) is or was living as if a spouse of the other person as provided in subsection (c); or
- (3) has a child in common with the other person;

in a rude, insolent, or angry manner that results in bodily injury to the person described in subdivision (1), (2), or (3) commits domestic battery, a Class A misdemeanor.

(b) However, the offense under subsection (a) is a Class D felony if the person who committed the offense:

(1) has a previous, unrelated conviction:

- (A) under this section (or IC 35-42-2-1(a)(2)(E) before its repeal); or
- (B) in any other jurisdiction, including a military court, in which the elements of the crime for which the conviction was entered are substantially similar to the elements described in this section; or

(2) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense.

(c) In considering whether a person is or was living as a spouse of another individual in subsection (a)(2), the court shall review the following:

- (1) the duration of the relationship;
- (2) the frequency of contact;
- (3) the financial interdependence;
- (4) whether the two (2) individuals are raising children together;
- (5) whether the two (2) individuals have engaged in tasks directed toward maintaining a common household; and
- (6) other factors the court considers relevant.

## **Aggravated Battery**

### **35-42-2-1.5 Aggravated battery**

A person who knowingly or intentionally inflicts injury on a person that creates a substantial risk of death or causes:

- (1) serious permanent disfigurement;
- (2) protracted loss or impairment of the function of a bodily member or organ; or
- (3) the loss of a fetus;

commits aggravated battery, a Class B felony.

## **Criminal Recklessness**

### **35-42-2-2 Criminal recklessness; element of hazing; liability barred for good faith report or judicial participation**

(a) As used in this section, "hazing" means forcing or requiring another person:

- (1) with or without the consent of the other person; and
- (2) as a condition of association with a group or organization;

to perform an act that creates a substantial risk of bodily injury.

(b) A person who recklessly, knowingly, or intentionally performs:

- (1) an act that creates a substantial risk of bodily injury to another person; or
- (2) hazing;

commits criminal recklessness. Except as provided in subsection (c), criminal recklessness is a Class B misdemeanor.

(c) The offense of criminal recklessness as defined in subsection (b) is:

- (1) a Class A misdemeanor if the conduct includes the use of a vehicle;
- (2) a Class D felony if:
  - (A) it is committed while armed with a deadly weapon; or
  - (B) the person committed aggressive driving (as defined in IC 9-21-8-55) that results in serious bodily injury to another person; or
- (3) a Class C felony if:

- (A) it is committed by shooting a firearm into an inhabited dwelling or other building or place where people are likely to gather; or
- (B) the person committed aggressive driving (as defined in IC 9-21-8-55) that results in the death of another person.

(d) A person who recklessly, knowingly, or intentionally:

- (1) inflicts serious bodily injury on another person; or
- (2) performs hazing that results in serious bodily injury to a person;

commits criminal recklessness, a Class D felony. However, the offense is a Class C felony if committed by means of a deadly weapon.

(e) A person, other than a person who has committed an offense under this section or a delinquent act that would be an offense under this section if the violator was an adult, who:

- (1) makes a report of hazing in good faith;
- (2) participates in good faith in a judicial proceeding resulting from a report of hazing;
- (3) employs a reporting or participating person described in subdivision (1) or (2); or
- (4) supervises a reporting or participating person described in subdivision (1) or (2);

is not liable for civil damages or criminal penalties that might otherwise be imposed because of the report or participation.

(f) A person described in subsection (e)(1) or (e)(2) is presumed to act in good faith.

(g) A person described in subsection (e)(1) or (e)(2) may not be treated as acting in bad faith solely because the person did not have probable cause to believe that a person committed:

- (1) an offense under this section; or
- (2) a delinquent act that would be an offense under this section if the offender was an adult.

### **Battery by Body Waste**

#### **35-42-2-6 Battery by body waste**

(a) As used in this section, "corrections officer" includes a person employed by:

- (1) the department of correction;
- (2) a law enforcement agency;



- (3) a county jail; or
- (4) a circuit, superior, county, probate, city, or town court.

(b) As used in this section, "human immunodeficiency virus (HIV)" includes acquired immune deficiency syndrome (AIDS) and AIDS related complex.

(c) A person who knowingly or intentionally in a rude, insolent, or angry manner places blood or another body fluid or waste on a law enforcement officer or a corrections officer identified as such and while engaged in the performance of official duties or coerces another person to place blood or another body fluid or waste on the law enforcement officer or corrections officer commits battery by body waste, a Class D felony. However, the offense is:

(1) a Class C felony if the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with:

- (A) hepatitis B;
- (B) HIV; or
- (C) tuberculosis;

(2) a Class B felony if:

- (A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with hepatitis B and the offense results in the transmission of hepatitis B to the other person; or
- (B) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class A felony if:

- (A) the person knew or recklessly failed to know that the blood, bodily fluid, or waste was infected with HIV; and
- (B) the offense results in the transmission of HIV to the other person.

(d) A person who knowingly or intentionally in a rude, an insolent, or an angry manner places human blood, semen, urine, or fecal waste on another person commits battery by body waste, a Class A misdemeanor. However, the offense is:

(1) a Class D felony if the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with:

- (A) hepatitis B;

- (B) HIV; or
- (C) tuberculosis;

(2) a Class C felony if:

- (A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with hepatitis B and the offense results in the transmission of hepatitis B to the other person; or
- (B) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with tuberculosis and the offense results in the transmission of tuberculosis to the other person; and

(3) a Class B felony if:

- (A) the person knew or recklessly failed to know that the blood, semen, urine, or fecal waste was infected with HIV; and
- (B) the offense results in the transmission of HIV to the other person.

## **Strangulation**

### **35-42-2-9 Strangulation**

- (a) This section does not apply to a medical procedure.
- (b) A person who, in a rude, angry, or insolent manner, knowingly or intentionally:

- (1) applies pressure to the throat or neck of another person; or
- (2) obstructs the nose or mouth of another person;

in a manner that impedes the normal breathing or the blood circulation of the other person commits strangulation, a Class D felony.

## **Chapter 3 - Kidnapping; Confinement**

### **Definition of "Confine"**

#### **35-42-3-1 Confine defined**

As used in this chapter, "confine" means to substantially interfere with the liberty of a person.

## **Kidnapping**

### **35-42-3-2 Kidnapping**

(a) A person who knowingly or intentionally confines another person:

- (1) with intent to obtain ransom;
- (2) while hijacking a vehicle;
- (3) with intent to obtain the release, or intent to aid in the escape, of any person from lawful detention; or
- (4) with intent to use the person confined as a shield or hostage;

commits kidnapping, a Class A felony.

(b) A person who knowingly or intentionally removes another person, by fraud, enticement, force, or threat of force, from one place to another:

- (1) with intent to obtain ransom;
- (2) while hijacking a vehicle;
- (3) with intent to obtain the release, or intent to aid in the escape, of any person from lawful detention; or
- (4) with intent to use the person removed as a shield or hostage;

commits kidnapping, a Class A felony.

### **Criminal Confinement**

#### **35-42-3-3 Criminal confinement**

(a) A person who knowingly or intentionally:

- (1) confines another person without the other person's consent; or
- (2) removes another person, by fraud, enticement, force, or threat of force from one (1) place to another;

commits criminal confinement. Except as provided in subsection (b), the offense of criminal confinement is a Class D felony.

(b) The offense of criminal confinement defined in subsection (a) is:

- (1) a Class C felony if:
  - (A) the person confined or removed is less than fourteen (14) years of age and is not the confining or removing person's child;
  - (B) it is committed by using a vehicle; or
  - (C) it results in bodily injury to a person other than the confining or removing person; and

(2) a Class B felony if it:

- (A) is committed while armed with a deadly weapon;
- (B) results in serious bodily injury to a person other than the confining or removing person; or
- (C) is committed on an aircraft.

## **Chapter 3.5 - Human and Sexual Trafficking**

### **Human and Sexual Trafficking**

#### **35-42-3.5-1 Promotion of human trafficking; sexual trafficking of a minor; human trafficking**

(a) A person who knowingly or intentionally recruits, harbors, or transports another person by force, threat of force, or fraud:

- (1) to engage the other person in:
  - (A) forced labor; or
  - (B) involuntary servitude; or

(2) to force the other person into:

- (A) marriage; or
- (B) prostitution;

commits promotion of human trafficking, a Class B felony.

(b) A parent, guardian, or custodian of a child less than eighteen (18) years of age who knowingly or intentionally sells or transfers custody of the child for the purpose of prostitution commits sexual trafficking of a minor, a Class A felony.

(c) A person who knowingly or intentionally pays, offers to pay, or agrees to pay money or other property to another person for an individual who the person knows has been forced into:

- (1) forced labor;
- (2) involuntary servitude; or
- (3) prostitution;

commits human trafficking, a Class C felony.

#### **35-42-3.5-4 Rights of alleged victims**

(a) An alleged victim of an offense under section 1 [I.C. 35-42-3.5-1] of this chapter:

- (1) may not be detained in a facility that is inappropriate to the victim's status as a crime victim;
- (2) may not be jailed, fined, or otherwise penalized due to having been the victim of the offense; and
- (3) shall be provided protection if the victim's safety is at risk or if there is danger of additional harm by recapture of the victim by the person who allegedly committed the offense, including:

- (A) taking measures to protect the alleged victim and the victim's family members from intimidation and threats of reprisals and reprisals from the person who allegedly committed the offense or the person's agent; and
- (B) ensuring that the names and identifying information of the alleged victim and the victim's family members are not disclosed to the public.

This subsection shall be administered by law enforcement agencies and the division of family resources, as appropriate.

(b) Not more than fifteen (15) days after the date a law enforcement agency first encounters an alleged victim of an offense under section 1 of this chapter, the law enforcement agency shall provide the alleged victim with a completed Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (LEA Declaration, Form I-914 Supplement B) in accordance with 8 CFR 214.11(f)(1). However, if the law enforcement agency finds that the grant of an LEA Declaration is not appropriate for the alleged victim, the law enforcement agency shall, not more than fifteen (15) days after the date the agency makes the finding, provide the alleged victim with a letter explaining the grounds for the denial of the LEA Declaration. After receiving a denial letter, the alleged victim may submit additional evidence to the law enforcement agency. If the alleged victim submits additional evidence, the law enforcement agency shall reconsider the denial of the LEA Declaration not more than seven (7) days after the date the agency receives the additional evidence.

#### **Chapter 4 - Sex Crimes**

##### **Rape**

#### **35-42-4-1 Rape**

(a) Except as provided in subsection (b), a person who knowingly or intentionally has sexual intercourse with a member of the opposite sex when:

- (1) the other person is compelled by force or imminent threat of force;
- (2) the other person is unaware that the sexual intercourse is occurring; or
- (3) the other person is so mentally disabled or deficient that consent to sexual intercourse cannot be given;

commits rape, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon;
- (3) it results in serious bodily injury to a person other than a defendant; or
- (4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

### **Criminal Deviate Conduct**

#### **35-42-4-2 Criminal deviate conduct**

(a) A person who knowingly or intentionally causes another person to perform or submit to deviate sexual conduct when:

- (1) the other person is compelled by force or imminent threat of force;
- (2) the other person is unaware that the conduct is occurring; or
- (3) the other person is so mentally disabled or deficient that consent to the conduct cannot be given;

commits criminal deviate conduct, a Class B felony.

(b) An offense described in subsection (a) is a Class A felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon;
- (3) it results in serious bodily injury to any person other than a defendant;  
or
- (4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

## **Child Molesting**

### **35-42-4-3 Child molesting**

(a) A person who, with a child under fourteen (14) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits child molesting, a Class B felony. However, the offense is a Class A felony if:

- (1) it is committed by a person at least twenty-one (21) years of age;
- (2) it is committed by using or threatening the use of deadly force or while armed with a deadly weapon;
- (3) it results in serious bodily injury; or
- (4) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person who, with a child under fourteen (14) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits child molesting, a Class C felony. However, the offense is a Class A felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon; or
- (3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(c) It is a defense that the accused person reasonably believed that the child was sixteen (16) years of age or older at the time of the conduct.

## **Sexual Battery**

### **35-42-4-8 Sexual battery**

(a) A person who, with intent to arouse or satisfy the person's own sexual desires or the sexual desires of another person, touches another person when that person is:

- (1) compelled to submit to the touching by force or the imminent threat of force; or
- (2) so mentally disabled or deficient that consent to the touching cannot be given;

commits sexual battery, a Class D felony.

(b) An offense described in subsection (a) is a Class C felony if:

- (1) it is committed by using or threatening the use of deadly force;
- (2) it is committed while armed with a deadly weapon; or
- (3) the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

### **Sexual Misconduct With a Minor**

#### **35-42-4-9 Sexual misconduct with a minor**

(a) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to sexual intercourse or deviate sexual conduct commits sexual misconduct with a minor, a Class C felony. However, the offense is:

- (1) a Class B felony if it is committed by a person at least twenty-one (21) years of age; and
- (2) a Class A felony if it is committed by using or threatening the use of deadly force, if it is committed while armed with a deadly weapon, if it results in serious bodily injury, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.

(b) A person at least eighteen (18) years of age who, with a child at least fourteen (14) years of age but less than sixteen (16) years of age, performs or submits to any fondling or touching, of either the child or the older person, with intent to arouse or to satisfy the sexual desires of either the child or the older person, commits sexual misconduct with a minor, a Class D felony. However, the offense is:

- (1) a Class C felony if it is committed by a person at least twenty-one (21) years of age; and
- (2) a Class B felony if it is committed by using or threatening the use of deadly force, while armed with a deadly weapon, or if the commission of the offense is facilitated by furnishing the victim, without the victim's knowledge, with a drug (as defined in IC 16-42-19-2(1)) or a controlled substance (as defined in IC 35-48-1-9) or knowing that the victim was furnished with the drug or controlled substance without the victim's knowledge.



(c) It is a defense that the accused person reasonably believed that the child was at least sixteen (16) years of age at the time of the conduct. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

(d) It is a defense that the child is or has ever been married. However, this subsection does not apply to an offense described in subsection (a)(2) or (b)(2).

## **Chapter 5 - Robbery**

### **Robbery**

#### **35-42-5-1 Robbery**

A person who knowingly or intentionally takes property from another person or from the presence of another person:

- (1) by using or threatening the use of force on any person; or
- (2) by putting any person in fear;

commits robbery, a Class C felony. However, the offense is a Class B felony if it is committed while armed with a deadly weapon or results in bodily injury to any person other than a defendant, and a Class A felony if it results in serious bodily injury to any person other than a defendant.

### **Carjacking**

#### **35-42-5-2 Carjacking**

Sec. 2. A person who knowingly or intentionally takes a motor vehicle from another person or from the presence of another person:

- (1) by using or threatening the use of force on any person; or
- (2) by putting any person in fear;

commits carjacking, a Class B felony.

## **OFFENSES AGAINST PROPERTY**

### **Chapter 1 - Arson; Mischief**

#### **Arson**

##### **35-43-1-1 Arson**

(a) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages:

- (1) a dwelling of another person without the other person's consent;
- (2) property of any person under circumstances that endanger human life;
- (3) property of another person without the other person's consent if the pecuniary loss is at least five thousand dollars (\$5,000); or
- (4) a structure used for religious worship without the consent of the owner of the structure;

commits arson, a Class B felony. However, the offense is a Class A felony if it results in either bodily injury or serious bodily injury to any person other than a defendant.

(b) A person who commits arson for hire commits a Class B felony. However, the offense is a Class A felony if it results in bodily injury to any other person.

(c) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages property of any person with intent to defraud commits arson, a Class C felony.

(d) A person who, by means of fire, explosive, or destructive device, knowingly or intentionally damages property of another person without the other person's consent so that the resulting pecuniary loss is at least two hundred fifty dollars (\$250) but less than five thousand dollars (\$5,000) commits arson, a Class D felony.

### **Criminal Mischief**

#### **35-43-1-2 Criminal mischief; operator's permit or license**

(a) A person who:

- (1) recklessly, knowingly, or intentionally damages or defaces property of another person without the other person's consent; or
- (2) knowingly or intentionally causes another to suffer pecuniary loss by deception or by an expression of intention to injure another person or to damage the property or to impair the rights of another person;

commits criminal mischief, a Class B misdemeanor. However, the offense is:

(A) a Class A misdemeanor if:

- (i) the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500);
- (ii) the property damaged was a moving motor vehicle;

- (iii) the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) and the person is not a sex offender or was not required to register as a sex offender;
- (iv) the property damaged was a locomotive, a railroad car, a train, or equipment of a railroad company being operated on a railroad right-of-way;
- (v) the property damaged was a part of any railroad signal system, train control system, centralized dispatching system, or highway railroad grade crossing warning signal on a railroad right-of-way owned, leased, or operated by a railroad company;
- (vi) the property damaged was any rail, switch, roadbed, viaduct, bridge, trestle, culvert, or embankment on a right-of-way owned, leased, or operated by a railroad company; or
- (vii) the property damage or defacement was caused by paint or other markings; and

(B) a Class D felony if:

- (i) the pecuniary loss is at least two thousand five hundred dollars (\$2, 500);
- (ii) the damage causes a substantial interruption or impairment of utility service rendered to the public;
- (iii) the damage is to a public record;
- (iv) the property damaged or defaced was a copy of the sex and violent offender directory (IC 5-2-6-3) and the person is a sex offender or was required to register as a sex offender;
- (v) the damage causes substantial interruption or impairment of work conducted in a scientific research facility;
- (vi) the damage is to a law enforcement animal (as defined in IC 35-46-3-4.5); or
- (vii) the damage causes substantial interruption or impairment of work conducted in a food processing facility.

(b) A person who recklessly, knowingly, or intentionally damages:

- (1) a structure used for religious worship;
- (2) a school or community center;
- (3) the grounds:

(A) adjacent to; and

(B) owned or rented in common with; a structure or facility identified in subdivision (1) or (2); or

(4) personal property contained in a structure or located at a facility identified in subdivision (1) or (2);

without the consent of the owner, possessor, or occupant of the property that is damaged, commits institutional criminal mischief, a Class A misdemeanor. However, the offense is a Class D felony if the pecuniary loss is at least two hundred fifty dollars (\$250) but less than two thousand five hundred dollars (\$2,500), and a Class C felony if the pecuniary loss is at least two thousand five hundred dollars (\$2,500).

(c) If a person is convicted of an offense under this section that involves the use of graffiti, the court may, in addition to any other penalty, order that the person's operator's license be suspended or invalidated by the bureau of motor vehicles for not more than one (1) year.

(d) The court may rescind an order for suspension or invalidation under subsection (c) and allow the person to receive a license or permit before the period of suspension or invalidation ends if the court determines that:

- (1) the person has removed or painted over the graffiti or has made other suitable restitution; and
- (2) the person who owns the property damaged or defaced by the criminal mischief or institutional criminal mischief is satisfied with the removal, painting, or other restitution performed by the person.

## **Chapter 2 - Burglary; Trespass**

### **Burglary**

#### **35-43-2-1 Burglary**

A person who breaks and enters the building or structure of another person, with intent to commit a felony in it, commits burglary, a Class C felony. However, the offense is:

(1) a Class B felony if:

- (A) it is committed while armed with a deadly weapon; or
- (B) the building or structure is a:

- (i) dwelling; or
- (ii) structure used for religious worship; and

(2) a Class A felony if it results in:

- (A) bodily injury; or
- (B) serious bodily injury;

to any person other than a defendant.

### **Residential Entry**

#### **35-43-2-1.5 Residential entry**

A person who knowingly or intentionally breaks and enters the dwelling of another person commits residential entry, a Class D felony.

### **Criminal Trespass**

#### **35-43-2-2 Criminal trespass**

(a) A person who:

- (1) not having a contractual interest in the property, knowingly or intentionally enters the real property of another person after having been denied entry by the other person or that person's agent;
- (2) not having a contractual interest in the property, knowingly or intentionally refuses to leave the real property of another person after having been asked to leave by the other person or that person's agent;
- (3) accompanies another person in a vehicle, with knowledge that the other person knowingly or intentionally is exerting unauthorized control over the vehicle;
- (4) knowingly or intentionally interferes with the possession or use of the property of another person without the person's consent;
- (5) not having a contractual interest in the property, knowingly or intentionally enters the dwelling of another person without the person's consent; or
- (6) knowingly or intentionally:
  - (A) travels by train without lawful authority or the railroad carrier's consent; and
  - (B) rides on the outside of a train or inside a passenger car, locomotive, or freight car, including a boxcar, flatbed, or container without lawful authority or the railroad carrier's consent;

commits criminal trespass, a Class A misdemeanor. However, the offense is a Class D felony if it is committed on a scientific research facility, on school property, or on a school bus or the person has a prior unrelated conviction for an offense under this section concerning the same property.

(b) A person has been denied entry under subdivision (a)(1) of this section when the person has been denied entry by means of:

- (1) personal communication, oral or written; or
- (2) posting or exhibiting a notice at the main entrance in a manner that is either prescribed by law or likely to come to the attention of the public.

(c) Subsections (a) and (b) do not apply to the following:

- (1) A passenger on a train.
- (2) An employee of a railroad carrier while engaged in the performance of official duties.
- (3) A law enforcement officer, firefighter, or emergency response personnel while engaged in the performance of official duties.
- (4) A person going on railroad property in an emergency to rescue a person or animal from harm's way or to remove an object that the person reasonably believes poses an imminent threat to life or limb.(5)  
A person on the station grounds or in the depot of a railroad carrier:
  - (A) as a passenger; or
  - (B) for the purpose of transacting lawful business.
- (6) A:
  - (A) person; or
  - (B) person's:
    - (i) family member;
    - (ii) invitee;
    - (iii) employee;
    - (iv) agent; or
    - (v) independent contractor;

going on a railroad's right-of-way for the purpose of crossing at a private crossing site approved by the railroad carrier to obtain access to land that the person owns, leases, or operates.

- (7) A person having written permission from the railroad carrier to go on specified railroad property.
- (8) A representative of the Indiana department of transportation while engaged in the performance of official duties.
- (9) A representative of the federal Railroad Administration while engaged in the performance of official duties.
- (10) A representative of the National Transportation Safety Board while engaged in the performance of official duties.

## **Chapter 4 - Theft; Conversion**

### **Definitions of Terms for Theft/Conversion Offenses**

#### **35-43-4-1 Definitions**

(a) As used in this chapter, "exert control over property" means to obtain, take, carry, drive, lead away, conceal, abandon, sell, convey, encumber, or possess property, or to secure, transfer, or extend a right to property.

(b) Under this chapter, a person's control over property of another person is "unauthorized" if it is exerted:

- (1) without the other person's consent;
- (2) in a manner or to an extent other than that to which the other person has consented;
- (3) by transferring or encumbering other property while failing to disclose a lien, adverse claim, or other legal impediment to the enjoyment of that other property;
- (4) by creating or confirming a false impression in the other person;
- (5) by failing to correct a false impression that the person knows is influencing the other person, if the person stands in a relationship of special trust to the other person;
- (6) by promising performance that the person knows will not be performed;
- (7) by expressing an intention to damage the property or impair the rights of any other person; or
- (8) by transferring or reproducing:
  - (A) recorded sounds; or
  - (B) a live performance;

without consent of the owner of the master recording or the live performance, with intent to distribute the reproductions for a profit.

(c) As used in this chapter, "receiving" means acquiring possession or control of or title to property, or lending on the security of property.

### **Theft**

#### **35-43-4-2 Theft; receiving stolen property**

(a) A person who knowingly or intentionally exerts unauthorized control over property of another person, with intent to deprive the other person of any part of its value or use, commits theft, a Class D felony. However, the offense is a Class C felony if the fair market value of the property is at least one hundred thousand dollars (\$100,000).

(b) A person who knowingly or intentionally receives, retains, or disposes of the property of another person that has been the subject of theft commits receiving stolen property, a Class D felony. However, the offense is a Class C felony if the fair market value of the property is at least one hundred thousand dollars (\$100,000).

### **Dealing in Altered Property**

#### **35-43-4-2.3 Dealing in altered property**

(a) As used in this section, "dealer" means a person who buys or sells, or offers to buy or sell, personal property. The term does not include the original retailer of personal property.

(b) A dealer who recklessly, knowingly, or intentionally buys or sells personal property in which the identification number or manufacturer's serial number has been removed, altered, obliterated, or defaced commits dealing in altered property, a Class A misdemeanor. However the offense is a Class D felony if the dealer has a prior conviction of an offense under this chapter or if the fair market value of the property is at least one thousand dollars (\$1,000).

### **Auto Theft**

#### **35-43-4-2.5 Auto theft; receiving stolen auto parts**

(a) As used in this section, "motor vehicle" has the meaning set forth in IC 9-13-2-105(a).

(b) A person who knowingly or intentionally exerts unauthorized control over the motor vehicle of another person, with intent to deprive the owner of:

- (1) the vehicle's value or use; or
- (2) a component part (as defined in IC 9-13-2-34) of the vehicle;

commits auto theft, a Class D felony. However, the offense is a Class C felony if the person has a prior conviction of an offense under this subsection or subsection (c).

(c) A person who knowingly or intentionally receives, retains, or disposes of a motor vehicle or any part of a motor vehicle of another person that has been the subject of theft commits receiving stolen auto parts, a Class D felony. However, the offense is a Class C felony if the person has a prior conviction of an offense under this subsection or subsection (b).



## **Criminal Conversion**

### **35-43-4-3 Conversion; unauthorized control of a motor vehicle**

(a) A person who knowingly or intentionally exerts unauthorized control over property of another person commits criminal conversion, a Class A misdemeanor.

(b) The offense under subsection (a) is a Class D felony if committed by a person who exerts unauthorized control over the motor vehicle of another person with the intent to use the motor vehicle to assist the person in the commission of a crime.

(c) The offense under subsection (a) is a Class C felony if:

- (1) committed by a person who exerts unauthorized control over the motor vehicle of another person; and
- (2) the person uses the motor vehicle to assist the person in the commission of a felony.

### **35-43-4-5 Defenses**

(a) An owner in possession of encumbered property does not commit a crime under this chapter [chapter 4 - Theft, Conversion and Receiving Stolen Property], as against a person having only a security interest in the property, by removing or otherwise dealing with the property contrary to the terms of the security agreement, even if title is in the credit institution under a mortgage, conditional sales contract, or bailment lease.

(b) It is a defense under this chapter if a maker or drawer:

- (1) who has an account in a credit institution but does not have sufficient funds in that account; and
- (2) who makes, draws, or utters a check, draft, or order for payment on the credit institution;

pays the credit institution the amount due, together with protest fees, within ten (10) days after receiving notice that the check, draft, or order has not been paid by the credit institution. Notice sent to either (i) the address printed or written on the check, draft, or order or (ii) the address given in writing to the recipient at the time the check, draft, or order was issued or delivered constitutes notice that the check, draft, or order has not been paid by the credit institution.

(c) A person who transfers or reproduces recorded sounds in connection with a broadcast or telecast, or for archival purposes, does not commit a crime under this chapter, even if he does not have the consent of the owner of the master recording.

(d) A person who receives, retains, or disposes of personal property that has been

the subject of theft with the purpose of restoring it to the owner, does not commit a crime under this chapter.

## **Chapter 5 - Forgery and Other Deception Offenses**

### **Forgery**

#### **35-43-5-2 Counterfeiting; forgery**

(a) A person who knowingly or intentionally:

(1) makes or utters a written instrument in such a manner that it purports to have been made:

- (A) by another person;
- (B) at another time;
- (C) with different provisions; or
- (D) by authority of one who did not give authority; or

(2) possesses more than one (1) written instrument knowing that the written instruments were made in a manner that they purport to have been made:

- (A) by another person;
- (B) at another time;
- (C) with different provisions; or
- (D) by authority of one who did not give authority;

commits counterfeiting, a Class D felony.

(b) A person who, with intent to defraud, makes, utters, or possesses a written instrument in such a manner that it purports to have been made:

- (1) by another person;
- (2) at another time;
- (3) with different provisions; or
- (4) by authority of one who did not give authority;

commits forgery, a Class C felony.

(c) This subsection applies to a person who applies for a driver's license (as defined in IC 9-13-2-48). A person who:

- (1) knowingly or intentionally uses a false or fictitious name or gives a false or fictitious address in an application for a driver's license or for a renewal or a duplicate of a driver's license; or

- (2) knowingly or intentionally makes a false statement or conceals a material fact or otherwise commits fraud in an application for a driver's license;

commits application fraud, a Class D felony.

(d) This subsection applies to a person who applies for a state identification card (as issued under IC 9-24-16). A person who:

- (1) knowingly or intentionally uses false information in an application for an identification card or for a renewal or duplicate of an identification card; or application for an identification card;

commits application fraud, a Class D felony.

### **Government Identification Deception**

#### **35-43-5-2.5 Government identification deception**

Sec. 2.5. A person who knowingly or intentionally possesses, produces, or distributes a document not issued by a government entity that purports to be a government issued identification commits a Class A misdemeanor.

### **Deception**

#### **35-43-5-3 Deception**

(a) A person who:

- (1) being an officer, manager, or other person participating in the direction of a credit institution, knowingly or intentionally receives or permits the receipt of a deposit or other investment, knowing that the institution is insolvent;
- (2) knowingly or intentionally makes a false or misleading written statement with intent to obtain property, employment, or an educational opportunity;
- (3) misapplies entrusted property, property of a governmental entity, or property of a credit institution in a manner that the person knows is unlawful or that the person knows involves substantial risk of loss or detriment to either the owner of the property or to a person for whose benefit the property was entrusted;
- (4) knowingly or intentionally, in the regular course of business, either:

(A) uses or possesses for use a false weight or measure or other device for falsely determining or recording the quality or quantity of any commodity; or

(B) sells, offers, or displays for sale or delivers less than the represented quality or quantity of any commodity;

- (5) with intent to defraud another person furnishing electricity, gas, water, telecommunication, or any other utility service, avoids a lawful charge for that service by scheme or device or by tampering with facilities or equipment of the person furnishing the service;
- (6) with intent to defraud, misrepresents the identity of the person or another person or the identity or quality of property;
- (7) with intent to defraud an owner of a coin machine, deposits a slug in that machine;
- (8) with intent to enable the person or another person to deposit a slug in a coin machine, makes, possesses, or disposes of a slug;
- (9) disseminates to the public an advertisement that the person knows is false, misleading, or deceptive, with intent to promote the purchase or sale of property or the acceptance of employment;
- (10) with intent to defraud, misrepresents a person as being a physician licensed under IC 25-22.5; or
- (11) knowingly and intentionally defrauds another person furnishing cable TV service by avoiding paying compensation for that service by any scheme or device or by tampering with facilities or equipment of the person furnishing the service;

commits deception, a Class A misdemeanor.

(b) In determining whether an advertisement is false, misleading, or deceptive under subsection (a)(9), there shall be considered, among other things, not only representations contained or suggested in the advertisement, by whatever means, including device or sound, but also the extent to which the advertisement fails to reveal material facts in the light of the representations.

### **Identity Deception**

#### **35-43-5-3.5 Penalties**

(a) Except as provided in subsection (b), a person who knowingly or intentionally obtains, possesses, transfers, or uses the identifying information of another person:

- (1) without the other person's consent; and
- (2) with intent to:
  - (A) harm or defraud another person;
  - (B) assume another person's identity; or
  - (C) profess to be another person;

commits identity deception, a Class D felony.

(b) The conduct prohibited in subsection (a) does not apply to:

- (1) a person less than twenty-one (21) years of age who uses the identifying information of another person to acquire an alcoholic beverage (as defined in IC 7.1-1-3-5);
- (2) a minor (as defined in IC 35-49-1-4) who uses the identifying information of another person to acquire:
  - (A) a cigarette or tobacco product (as defined in IC 6-7-2-5);
  - (B) a periodical, a videotape, or other communication medium that contains or depicts nudity (as defined in IC 35-49-1-5);
  - (C) admittance to a performance (live or film) that prohibits the attendance of the minor based on age; or
  - (D) an item that is prohibited by law for use or consumption by a minor; or
- (3) any person who uses the identifying information for a lawful purpose.

(c) It is not a defense in a prosecution under subsection (a) that no person was harmed or defrauded.

## **Fraud**

### **35-43-5-4 Fraud**

A person who:

- (1) with intent to defraud, obtains property by:
  - (A) using a credit card, knowing that the credit card was unlawfully obtained or retained;
  - (B) using a credit card, knowing that the credit card is forged, revoked, or expired;
  - (C) using, without consent, a credit card that was issued to another person;
  - (D) representing, without the consent of the credit card holder, that the person is the authorized holder of the credit card; or
  - (E) representing that the person is the authorized holder of a credit card when the card has not in fact been issued;
- (2) being authorized by an issuer to furnish property upon presentation of a credit card, fails to furnish the property and, with intent to defraud the issuer or the credit card holder, represents in writing to the issuer that the person has furnished the property;
- (3) being authorized by an issuer to furnish property upon presentation of a credit card, furnishes, with intent to defraud the issuer or the credit card holder, property upon

presentation of a credit card, knowing that the credit card was unlawfully obtained or retained or that the credit card is forged, revoked, or expired;

(4) not being the issuer, knowingly or intentionally sells a credit card;

(5) not being the issuer, receives a credit card, knowing that the credit card was unlawfully obtained or retained or that the credit card is forged, revoked, or expired;

(6) with intent to defraud, receives a credit card as security for debt;

(7) receives property, knowing that the property was obtained in violation of subdivision (1) of this section;

(8) with intent to defraud the person's creditor or purchaser, conceals, encumbers, or transfers property;

(9) with intent to defraud, damages property; or

(10) knowingly or intentionally:

(A) sells;

(B) rents;

(C) transports; or

(D) possesses;

a recording for commercial gain or personal financial gain that does not conspicuously display the true name and address of the manufacturer of the recording;

commits fraud, a Class D felony.

### **Check Deception**

#### **35-43-5-5 Check deception**

(a) A person who knowingly or intentionally issues or delivers a check, a draft, or an order on a credit institution for the payment of or to acquire money or other property, knowing that it will not be paid or honored by the credit institution upon presentment in the usual course of business, commits check deception, a Class A misdemeanor. However, the offense is a Class D felony if the amount of the check, draft, or order is at least two thousand five hundred dollars (\$2,500) and the property acquired by the person was a motor vehicle.

(b) An unpaid and dishonored check, a draft, or an order that has the drawee's refusal to pay and reason printed, stamped, or written on or attached to it constitutes prima facie evidence:

- (1) that due presentment of it was made to the drawee for payment and dishonor thereof; and
- (2) that it properly was dishonored for the reason stated.

(c) The fact that a person issued or delivered a check, a draft, or an order, payment of which was refused by the drawee, constitutes prima facie evidence that the person knew that it would not be paid or honored. In addition, evidence that a person had insufficient funds in or no account with a drawee credit institution constitutes prima facie evidence that the person knew that the check, draft, or order would not be paid or honored.

(d) The following two (2) items constitute prima facie evidence of the identity of the maker of a check, draft, or order if at the time of its acceptance they are obtained and recorded, either on the check, draft, or order itself or on file, by the payee:

- (1) Name and residence, business, or mailing address of the maker.
- (2) Motor vehicle operator's license number, Social Security number, home telephone number, or place of employment of the maker.

(e) It is a defense under subsection (a) if a person who:

- (1) has an account with a credit institution but does not have sufficient funds in that account; and
- (2) issues or delivers a check, a draft, or an order for payment on that credit institution;

pays the payee or holder the amount due, together with protest fees and any service fee or charge, which may not exceed the greater of twenty-seven dollars and fifty cents (\$27.50) or five percent (5%) (but not more than two hundred fifty dollars (\$250)) of the amount due, that may be charged by the payee or holder, within ten (10) days after the date of mailing by the payee or holder of notice to the person that the check, draft, or order has not been paid by the credit institution. Notice sent in the manner set forth in IC 26-2-7-3 constitutes notice to the person that the check, draft, or order has not been paid by the credit institution. The payee or holder of a check, draft, or order that has been dishonored incurs no civil or criminal liability for sending notice under this subsection.

(f) A person does not commit a crime under subsection (a) when:

- (1) the payee or holder knows that the person has insufficient funds to ensure payment or that the check, draft, or order is postdated; or
- (2) insufficiency of funds or credit results from an adjustment to the person's account by the credit institution without notice to the person.

## OFFENSES AGAINST PUBLIC ADMINISTRATION

### Bribery

#### 35-44-1-1 Bribery

(a) A person who:

- (1) confers, offers, or agrees to confer on a public servant, either before or after the public servant becomes appointed, elected, or qualified, any property except property the public servant is authorized by law to accept, with intent to control the performance of an act related to the employment or function of the public servant or because of any official act performed or to be performed by the public servant, former public servant, or person selected to be a public servant;
- (2) being a public servant, solicits, accepts, or agrees to accept, either before or after the person becomes appointed, elected, or qualified, any property, except property the person is authorized by law to accept, with intent to control the performance of an act related to the person's employment or function as a public servant;
- (3) confers, offers, or agrees to confer on a person any property, except property the person is authorized by law to accept, with intent to cause that person to control the performance of an act related to the employment or function of a public servant;
- (4) solicits, accepts, or agrees to accept any property, except property the person is authorized by law to accept, with intent to control the performance of an act related to the employment or function of a public servant;
- (5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use the person's best efforts in connection with that contest, event, or exhibition;
- (6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that the person will fail to use the person's best efforts in connection with that contest, event, or exhibition;
- (7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:
  - (A) withhold any testimony, information, document, or thing;
  - (B) avoid legal process summoning the person to testify or supply evidence; or
  - (C) absent the person from the proceeding or investigation to which the person has been legally summoned;



- (8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:
  - (A) withhold any testimony, information, document, or thing;
  - (B) avoid legal process summoning the witness or informant to testify or supply evidence; or
  - (C) absent the person from any proceeding or investigation to which the witness or informant has been legally summoned; or
- (9) confers or offers or agrees to confer any property on an individual for:
  - (A) casting a ballot or refraining from casting a ballot; or
  - (B) voting for a political party, for a candidate, or for or against a public question;

in an election described in IC 3-5-1-2 or at a convention of a political party authorized under IC 3;

commits bribery, a Class C felony.

(b) It is no defense that the person whom the accused person sought to control was not qualified to act in the desired way.

## **Perjury**

### **35-44-2-1 Perjury**

- (a) A person who:
  - (1) makes a false, material statement under oath or affirmation, knowing the statement to be false or not believing it to be true; or
  - (2) has knowingly made two (2) or more material statements, in a proceeding before a court or grand jury, which are inconsistent to the degree that one (1) of them is necessarily false;

commits perjury, a Class D felony.

- (b) In a prosecution under subsection (a)(2) of this section:
  - (1) the indictment or information need not specify which statement is actually false; and
  - (2) the falsity of a statement may be established sufficient for conviction, by proof that the defendant made irreconcilably contradictory statements which are material to the point in question.

## **False Reporting**

### **35-44-2-2 False reporting or informing**

(a) As used in this section, "consumer product" has the meaning set forth in IC 35-45-8-1.

(b) As used in this section, "misconduct" means a violation of a departmental rule or procedure of a law enforcement agency.

(c) A person who reports, by telephone, telegraph, mail, or other written or oral communication, that:

- (1) the person or another person has placed or intends to place an explosive, a destructive device, or other destructive substance in a building or transportation facility;
- (2) there has been or there will be tampering with a consumer product introduced into commerce; or
- (3) there has been or will be placed or introduced a weapon of mass destruction in a building or a place of assembly;

knowing the report to be false commits false reporting, a Class D felony.

(d) A person who:

- (1) gives a false report of the commission of a crime or gives false information in the official investigation of the commission of a crime, knowing the report or information to be false;
- (2) gives a false alarm of fire to the fire department of a governmental entity, knowing the alarm to be false;
- (3) makes a false request for ambulance service to an ambulance service provider, knowing the request to be false;
- (4) gives a false report concerning a missing child (as defined in IC 10-13-5-4) or missing endangered adult (as defined in IC 12-7-2-131.3) or gives false information in the official investigation of a missing child or missing endangered adult knowing the report or information to be false; or
- (5) makes a complaint against a law enforcement officer to the state or municipality (as defined in IC 8-1-13-3) that employs the officer: (A) alleging the officer engaged in misconduct while performing the officer's duties; and (B) knowing the complaint to be false;

commits false informing, a Class B misdemeanor. However, the offense is a Class A misdemeanor if it substantially hinders any law enforcement process or if it results in harm to an innocent person.

## **Assisting a Criminal**

### **35-44-3-2 Assisting a criminal**

A person not standing in the relation of parent, child, or spouse to another person who has committed a crime or is a fugitive from justice who, with intent to hinder the apprehension or punishment of the other person, harbors, conceals, or otherwise assists the person commits assisting a criminal, a Class A misdemeanor. However, the offense is:

- (1) a Class D felony if the person assisted has committed a Class B, Class C, or Class D felony; and
- (2) a Class C felony if the person assisted has committed murder or a Class A felony, or if the assistance was providing a deadly weapon.

## **Resisting Law Enforcement**

### **35-44-3-3 Resisting law enforcement**

(a) A person who knowingly or intentionally:

- (1) forcibly resists, obstructs, or interferes with a law enforcement officer or a person assisting the officer while the officer is lawfully engaged in the execution of the officer's duties;
- (2) forcibly resists, obstructs, or interferes with the authorized service or execution of a civil or criminal process or order of a court; or (3) flees from a law enforcement officer after the officer has, by visible or audible means, including operation of the law enforcement officer's siren or emergency lights, identified himself or herself and ordered the person to stop;

commits resisting law enforcement, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense under subsection (a) is a:

- (1) Class D felony if:
  - (A) the offense is described in subsection (a)(3) and the person uses a vehicle to commit the offense; or
  - (B) while committing any offense described in subsection (a), the person draws or uses a deadly weapon, inflicts bodily injury on or otherwise causes bodily injury to another person, or operates a vehicle in a manner that creates a substantial risk of bodily injury to another person;

- (2) Class C felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes serious bodily injury to another person; and
- (3) Class B felony if, while committing any offense described in subsection (a), the person operates a vehicle in a manner that causes the death of another person.

(c) For purposes of this section, a law enforcement officer includes an enforcement officer of the alcohol and tobacco commission and a conservation officer of the department of natural resources.

(d) If a person uses a vehicle to commit a felony offense under subsection (b)(1)(B), (b)(2), or (b)(3), as part of the criminal penalty imposed for the offense, the court shall impose a minimum executed sentence of at least:

- (1) thirty (3) days, if the person does not have a prior unrelated conviction under this section;
- (2) one hundred eighty (180) days, if the person has one (1) prior unrelated conviction under this section; or
- (3) one (1) year, if the person has two (2) or more prior unrelated convictions under this section.

(e) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, the mandatory minimum sentence imposed under subsection (d) may not be suspended.

### **Obstruction of Justice**

#### **35-44-3-4 Obstruction of justice; exception**

(a) A person who:

- (1) knowingly or intentionally induces, by threat, coercion, or false statement, a witness or informant in an official proceeding or investigation to:
  - (A) withhold or unreasonably delay in producing any testimony, information, document, or thing;
  - (B) avoid legal process summoning him to testify or supply evidence; or
  - (C) absent himself from a proceeding or investigation to which he has been legally summoned;
- (2) knowingly or intentionally in an official criminal proceeding or investigation:

- (A) withholds or unreasonably delays in producing any testimony, information, document, or thing after a court orders him to produce the testimony, information, document, or thing;
  - (B) avoids legal process summoning him to testify or supply evidence; or
  - (C) absents himself from a proceeding or investigation to which he has been legally summoned;
- (3) alters, damages, or removes any record, document, or thing, with intent to prevent it from being produced or used as evidence in any official proceeding or investigation;
  - (4) makes, presents, or uses a false record, document, or thing with intent that the record, document, or thing, material to the point in question, appear in evidence in an official proceeding or investigation to mislead a public servant; or
  - (5) communicates, directly or indirectly, with a juror otherwise than as authorized by law, with intent to influence the juror regarding any matter that is or may be brought before the juror;

commits obstruction of justice, a Class D felony.

(b) Subdivision (a)(2)(A) does not apply to:

- (1) a person who qualifies for a special privilege under IC 34-46-4 with respect to the testimony, information, document, or thing; or
- (2) a person who, as an:

- (A) attorney;
- (B) physician;
- (C) member of the clergy; or
- (D) husband or wife;

is not required to testify under IC 34-46-3-1.

## **Escape**

### **35-44-3-5 Escape; failure to return to lawful detention following temporary leave**

(a) A person, except as provided in subsection (b), who intentionally flees from lawful detention commits escape, a Class C felony. However, the offense is a Class B felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

(b) A person who knowingly or intentionally violates a home detention order or intentionally removes an electronic monitoring device commits escape, a Class D felony.

(c) A person who knowingly or intentionally fails to return to lawful detention following temporary leave granted for a specified purpose or limited period commits failure to return to lawful detention, a Class D felony. However, the offense is a Class C felony if, while committing it, the person draws or uses a deadly weapon or inflicts bodily injury on another person.

### **Failure to Appear**

#### **35-44-3-6 Failure to appear**

(a) A person who, having been released from lawful detention on condition that he appear at a specified time and place in connection with a charge of a crime, intentionally fails to appear at that time and place commits failure to appear, a Class A misdemeanor. However, the offense is a Class D felony if the charge was a felony charge.

(b) It is no defense that the accused person was not convicted of the crime with which he was originally charged.

(c) This section does not apply to obligations to appear incident to release under suspended sentence or on probation or parole.

#### **35-44-3-6.5 Failure to respond to a summons**

(a) A person who, having been issued:

- (1) a complaint and summons in connection with an infraction or ordinance violation; or
- (2) a summons, or summons and promise to appear, in connection with a misdemeanor violation;

notifying him to appear at a specific time and place, intentionally fails to appear at the specified time and place commits failure to respond to a summons, a Class C misdemeanor.

(b) It is no defense that judgment was entered in favor of the person in the infraction or ordinance proceeding or that the person was acquitted of the misdemeanor for which he was summoned to appear.

## **Trafficking With an Inmate**

### **35-44-3-9 Trafficking with an inmate**

(a) As used in this section, "juvenile facility" means the following:

- (1) A secure facility (as defined in IC 31-9-2-114) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent child.
- (2) A shelter care facility (as defined in IC 31-9-2-117) in which a child is detained under IC 31 or used for a child awaiting adjudication or adjudicated under IC 31 as a child in need of services or a delinquent

(b) Except as provided in subsection (d), a person who, without the prior authorization of the person in charge of a penal facility or juvenile facility knowingly or intentionally:

- (1) delivers, or carries into the penal facility or juvenile facility with intent to deliver, an article to an inmate or child of the facility;
- (2) carries, or receives with intent to carry out of the penal facility or juvenile facility, an article from an inmate or child of the facility; or
- (3) delivers, or carries to a worksite with the intent to deliver, alcoholic beverages to an inmate or child of a jail work crew or community work crew;

commits trafficking with an inmate, a Class A misdemeanor.

(c) If the person who committed the offense under subsection (b) is an employee of:

- (1) the department of correction; or
- (2) a penal facility;

and the article is a cigarette or tobacco product (as defined in IC 6-7-2-5), the court shall impose a mandatory five thousand dollar (\$5,000) fine under IC 35-50-3-2, in addition to any term of imprisonment imposed under IC 35-50-3-2.

(d) The offense under subsection (b) is a Class C felony if the article is:

- (1) a controlled substance; or
- (2) a deadly weapon.

## **OFFENSES AGAINST PUBLIC HEALTH, ORDER AND DECENCY**

### **Chapter 1 - Offenses Against Public Order**

#### **Definitions of Tumultuous Conduct and Unlawful Assembly**

##### **35-45-1-1 Definitions**

As used in this chapter:

"Tumultuous conduct" means conduct that results in, or is likely to result in, serious bodily injury to a person or substantial damage to property.

"Unlawful assembly" means an assembly of five (5) or more persons whose common object is to commit an unlawful act, or a lawful act by unlawful means. Prior concert is not necessary to form an unlawful assembly.

#### **Disorderly Conduct**

##### **35-45-1-3 Disorderly conduct; conduct at airports**

Sec. 3. (a) A person who recklessly, knowingly, or intentionally:

- (1) engages in fighting or in tumultuous conduct;
- (2) makes unreasonable noise and continues to do so after being asked to stop; or
- (3) disrupts a lawful assembly of persons;

commits disorderly conduct, a Class B misdemeanor.

(b) The offense described in subsection (a) is a Class D felony if it:

- (1) adversely affects airport security; and
- (2) is committed in an airport (as defined in IC 8-21-1-1) or on the premises of an airport, including in a parking area, a maintenance bay, or an aircraft hangar.

(c) The offense described in subsection (a) is a Class D felony if it:

- (1) is committed within five hundred (500) feet of:
  - (A) the location where a burial is being performed;
  - (B) a funeral procession, if the person described in subsection (a) knows that the funeral procession is taking place; or
  - (C) a building in which:



- (i) a funeral or memorial service; or
- (ii) the viewing of a deceased person; is being conducted;
- and

(2) adversely affects the funeral, burial, viewing, funeral procession, or memorial service.

## **Chapter 2 - Offenses Relating to Communications**

### **Intimidation**

#### **35-45-2-1 Intimidation**

(a) A person who communicates a threat to another person, with the intent:

- (1) that the other person engage in conduct against the other person's will;
- (2) that the other person be placed in fear of retaliation for a prior lawful act; or
- (3) of causing:

(A) a dwelling, a building, or another structure; or

(B) a vehicle;

to be evacuated;

commits intimidation, a Class A misdemeanor.

(b) However, the offense is a:

(1) Class D felony if:

(A) the threat is to commit a forcible felony;

(B) the person to whom the threat is communicated:

(i) is a law enforcement officer;

(ii) is a judge or bailiff of any court;

(iii) is a witness (or the spouse or child of a witness) in any pending criminal proceeding against the person making the threat;

(iv) is an employee of a school corporation;

(v) is a community policing volunteer;

(vi) is an employee of a court;

(vii) is an employee of a probation department; or

(viii) is an employee of a community corrections program.

(C) the person has a prior unrelated conviction for an offense under this section concerning the same victim; or

(D) the threat is communicated using property, including electronic equipment or systems, of a school corporation or other governmental entity; and

(2) Class C felony if, while committing it, the person draws or uses a deadly weapon.

(c) "Threat" means an expression, by words or action, of an intention to:

- (1) unlawfully injure the person threatened or another person, or damage property;
- (2) unlawfully subject a person to physical confinement or restraint;
- (3) commit a crime;
- (4) unlawfully withhold official action, or cause such withholding;
- (5) unlawfully withhold testimony or information with respect to another person's legal claim or defense, except for a reasonable claim for witness fees or expenses;
- (6) expose the person threatened to hatred, contempt, disgrace, or ridicule;
- (7) falsely harm the credit or business reputation of the person threatened;
- or
- (8) cause the evacuation of a dwelling, a building, another structure, or a vehicle.

## **Harassment**

### **35-45-2-2 Harassment; "obscene message" defined**

(a) A person who, with intent to harass, annoy, or alarm another person but with no intent of legitimate communication:

- (1) makes a telephone call, whether or not a conversation ensues;
- (2) communicates with a person by telegraph, mail, or other form of written communication;
- (3) transmits an obscene message, or indecent or profane words, on a Citizens Radio Service channel; or
- (4) uses a computer network (as defined in IC 35-43-2-3(a)) or other form of electronic communication to:

(A) communicate with a person; or

(B) transmit an obscene message or indecent or profane words to a person;

commits harassment, a Class B misdemeanor.

(b) A message is obscene if:

- (1) the average person, applying contemporary community standards, finds that the dominant theme of the message, taken as a whole, appeals to the prurient interest in sex;
- (2) the message refers to sexual conduct in a patently offensive way; and
- (3) the message, taken as a whole, lacks serious artistic, literary, political, or scientific value.

### **Interference With Reporting a Crime**

#### **35-45-2-5 Interference with reporting of a crime**

A person who, with the intent to commit, conceal, or aid in the commission of a crime, knowingly or intentionally interferes with or prevents an individual from:

- (1) using a 911 emergency telephone system;
- (2) obtaining medical assistance; or
- (3) making a report to a law enforcement officer;

commits interference with the reporting of a crime, a Class A misdemeanor.

### **Chapter 4 - Public Indecency; Prostitution**

#### **Public Indecency**

##### **35-45-4-1 Public indecency; indecent exposure**

(a) A person who knowingly or intentionally, in a public place:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct;
- (3) appears in a state of nudity with the intent to arouse the sexual desires of the person or another person; or
- (4) fondles the person's genitals or the genitals of another person;

commits public indecency, a Class A misdemeanor.

(b) A person at least eighteen (18) years of age who knowingly or intentionally, in a public place, appears in a state of nudity with the intent to be seen by a child less than sixteen (16) years of age commits public indecency, a Class A misdemeanor.

(c) However, the offense under subsection (a) or subsection (b) is a Class D felony if the person who commits the offense has a prior unrelated conviction:

- (1) under subsection (a) or (b); or
- (2) in another jurisdiction, including a military court, that is substantially equivalent to an offense described in subsection (a) or (b).

(d) As used in this section, "nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernibly turgid state.

(e) A person who, in a place other than a public place, with the intent to be seen by persons other than invitees and occupants of that place:

- (1) engages in sexual intercourse;
- (2) engages in deviate sexual conduct;
- (3) fondles the person's genitals or the genitals of another person; or
- (4) appears in a state of nudity;

where the person can be seen by persons other than invitees and occupants of that place commits indecent exposure, a Class C misdemeanor.

### **Public Nudity**

#### **35-45-4-1.5 Public nudity**

(a) As used in this section, "nudity" has the meaning set forth in section 1(d) of this chapter.

(b) A person who knowingly or intentionally appears in a public place in a state of nudity commits public nudity, a Class C misdemeanor.

(c) A person who knowingly or intentionally appears in a public place in a state of nudity with the intent to be seen by another person commits a Class B misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (d).

(d) A person who knowingly or intentionally appears in a state of nudity:

- (1) in or on school grounds;
- (2) in a public park; or
- (3) with the intent to arouse the sexual desires of the person or another person, in a department of natural resources owned or managed property;

commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction under this subsection or under subsection (c).

## **Prostitution**

### **35-45-4-2 Prostitution**

A person who knowingly or intentionally:

(1) performs, or offers or agrees to perform, sexual intercourse or deviate sexual conduct; or

(2) fondles, or offers or agrees to fondle, the genitals of another person;

for money or other property commits prostitution, a Class A misdemeanor. However, the offense is a Class D felony if the person has two (2) prior convictions under this section.

## **Patronizing a Prostitute**

### **35-45-4-3 Patronizing a prostitute**

A person who knowingly or intentionally pays, or offers or agrees to pay, money or other property to another person:

(1) for having engaged in, or on the understanding that the other person will engage in, sexual intercourse or deviate sexual conduct with the person or with any other person; or

(2) for having fondled, or on the understanding that the other person will fondle, the genitals of the person or any other person; commits patronizing a prostitute, a Class A misdemeanor. However, the offense is a Class D felony if the person has two (2) prior convictions under this section.

## **Promoting Prostitution**

### **35-45-4-4 Promoting prostitution**

A person who:

(1) knowingly or intentionally entices or compels another person to become a prostitute;

(2) knowingly or intentionally procures, or offers or agrees to procure, a person for another person for the purpose of prostitution;

(3) having control over the use of a place, knowingly or intentionally permits another person to use the place for prostitution;

(4) receives money or other property from a prostitute, without lawful consideration, knowing it was earned in whole or in part from prostitution; or

(5) knowingly or intentionally conducts or directs another person to a place for the purpose of prostitution;

commits promoting prostitution, a Class C felony. However, the offense is a Class B felony under subdivision (1) if the person enticed or compelled is under eighteen (18) years of age.

### **Voyeurism**

#### **35-45-4-5 Voyeurism; "peep" defined**

(a) A person:

(1) who:

(A) peeps; or

(B) goes upon the land of another with the intent to peep; into an occupied dwelling of another person; or

(2) who peeps into an area where an occupant of the area reasonably can be expected to disrobe, including:

(A) restrooms;

(B) baths;

(C) showers; and

(D) dressing rooms;

without the consent of the other person, commits voyeurism, a Class B misdemeanor.

(b) However, the offense under subsection (a) is a Class D felony if:

(1) it is knowingly or intentionally committed by means of a camera, a video camera, or any other type of video recording device; or

(2) the person who commits the offense has a prior unrelated conviction:

(A) under this section; or

(B) in another jurisdiction, including a military court, for an offense that is substantially similar to an offense described in this section.

(c) "Peep" means any looking of a clandestine, surreptitious, prying, or secretive nature.

## **Chapter 9 - Criminal Gang Control**

### **Definition of "Criminal Gang"**

#### **35-45-9-1 "Criminal gang" defined**

As used in this chapter, "criminal gang" means a group with at least five (5) members that specifically:

(1) either:

- (A) promotes, sponsors, or assists in; or
- (B) participates in; or

(2) requires as a condition of membership or continued membership;

the commission of a felony or an act that would be a felony if committed by an adult or the offense of battery ( IC 35-42-2-1).

### **Definition of "Threatens"**

#### **35-45-9-2 "Threatens" defined**

As used in this chapter, "threatens" includes a communication made with the intent to harm a person or the person's property or any other person or the property of another person.

### **Criminal Gang Activity**

#### **35-45-9-3 Participation in criminal gang; offense**

A person who knowingly or intentionally actively participates in a criminal gang commits criminal gang activity, a Class D felony.

### **Gang Intimidation**

#### **35-45-9-4 Threats; refusal to join or withdrawal from gang; intimidation offense**

A person who threatens another person because the other person:

- (1) refuses to join a criminal gang; or
- (2) has withdrawn from a criminal gang;

commits criminal gang intimidation, a Class C felony.

## **Chapter 10 - Stalking**

### **Definition of "Stalk"**

#### **35-45-10-1 Stalk; defined**

As used in this chapter, "stalk" means a knowing or an intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened. The term does not include statutorily or constitutionally protected activity.

### **Definition of "Harassment"**

#### **35-45-10-2 Harassment; defined**

As used in this chapter, "harassment" means conduct directed toward a victim that includes but is not limited to repeated or continuing impermissible contact that would cause a reasonable person to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include statutorily or constitutionally protected activity, such as lawful picketing pursuant to labor disputes or lawful employer-related activities pursuant to labor disputes.

### **Definition of "Impermissible Contact"**

#### **35-45-10-3 Impermissible contact; defined**

As used in this chapter, "impermissible contact" includes but is not limited to knowingly or intentionally following or pursuing the victim.

### **Stalking**

#### **35-45-10-5 Criminal stalking**

- (a) A person who stalks another person commits stalking, a Class D felony.
- (b) The offense is a Class C felony if at least one (1) of the following applies:
  - (1) A person:
    - (A) stalks a victim; and
    - (B) makes an explicit or an implicit threat with the intent to place the victim in reasonable fear of:
      - (i) sexual battery (as defined in IC 35-42-4-8);
      - (ii) serious bodily injury; or



(iii) death.

(2) A protective order to prevent domestic or family violence, a no contact order, or other judicial order under any of the following statutes has been issued by the court to protect the same victim or victims from the person and the person has been given actual notice of the order:

- (A) IC 31-15 and IC 34-26-5 or IC 31-1-11.5 before its repeal (dissolution of marriage and legal separation).
- (B) IC 31-34, IC 31-37, or IC 31-6-4 before its repeal (delinquent children and children in need of services).
- (C) IC 31-32 or IC 31-6-7 before its repeal (procedure in juvenile court).
- (D) IC 34-26-5 or IC 34-26-2 and IC 34-4-5.1 before their repeal (protective order to prevent abuse).
- (E) IC 34-26-6 (workplace violence restraining orders).

(3) The person's stalking of another person violates an order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion if the person has been given actual notice of the order.

(4) The person's stalking of another person violates a no contact order issued as a condition of probation if the person has been given actual notice of the order.

(5) The person's stalking of another person violates a protective order issued under IC 31-14-16-1 and IC 34-26-5 in a paternity action if the person has been given actual notice of the order.

(6) The person's stalking of another person violates an order issued in another state that is substantially similar to an order described in subdivisions (2) through (5) if the person has been given actual notice of the order.

(7) The person's stalking of another person violates an order that is substantially similar to an order described in subdivisions (2) through (5) and is issued by an Indian:

- (A) tribe;
- (B) band;
- (C) pueblo;
- (D) nation; or
- (E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians if the person has been given actual notice of the order.

- (8) A criminal complaint of stalking that concerns an act by the person against the same victim or victims is pending in a court and the person has been given actual notice of the complaint.

(c) The offense is a Class B felony if:

- (1) the act or acts were committed while the person was armed with a deadly weapon; or
- (2) the person has an unrelated conviction for an offense under this section against the same victim or victims.

(d) Notwithstanding subsection (a), the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly if the court finds mitigating circumstances. The court may consider the mitigating circumstances in IC 35-38-1-7.1(c) in making a determination under this subsection. However, the criteria listed in IC 35-38-1-7.1(c) do not limit the matters the court may consider in making its determination.

(e) Notwithstanding subsection (b), the court may enter judgment of conviction of a Class D felony and sentence accordingly if the court finds mitigating circumstances. The court may consider the mitigating circumstances in IC 35-38-1-7.1(c) in making a determination under this subsection. However, the criteria listed in IC 35-38-1-7.1(c) do not limit the matters the court may consider in making its determination.

## **OFFENSES AGAINST THE FAMILY**

### **Neglect of a Dependent**

#### **35-46-1-4 Neglect of a dependent; child selling**

(a) A person having the care of a dependent, whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

- (1) places the dependent in a situation that endangers the dependent's life or health;
- (2) abandons or cruelly confines the dependent;
- (3) deprives the dependent of necessary support; or
- (4) deprives the dependent of education as required by law;

commits neglect of a dependent, a Class D felony.

(b) However, the offense is:

(1) a Class C felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and

(A) results in bodily injury; or

(B) is:

(i) committed in a location where a person is violating IC 35-48-4-1 (delivery, financing or manufacture

of cocaine, methamphetamine, or a narcotic drug); or

(ii) the result of a violation of IC 35-48-4-1 (delivery, financing, or manufacture of cocaine,

methamphetamine, or a narcotic drug);

(2) a Class B felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

(3) a Class A felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and

(4) a Class C felony if it is committed under subsection (a)(2) and consists of cruel or unusual confinement or abandonment.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31-34-2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31-15, IC 31-16, IC 31-17, or IC 31-35 (or IC 31-1-11.5 or IC 31-6-5 before their repeal); or

(2) under IC 35-46-1-9(b);

a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Class D felony.

### **Nonsupport of a Dependent Child**

#### **35-46-1-5 Nonsupport of a dependent child**

(a) A person who knowingly or intentionally fails to provide support to the person's dependent child commits nonsupport of a child, a Class D felony. However, the offense is a Class C felony if the total amount of unpaid support that is due and owing for one (1) or more children is at least fifteen thousand dollars (\$15,000).

(b) It is a defense that the child had abandoned the home of his family without the consent of his parent or on the order of a court, but it is not a defense that the child had abandoned the home of his family if the cause of the child's leaving was the fault of his parent.

(c) It is a defense that the accused person, in the legitimate practice of his religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to his dependent child.

(d) It is a defense that the accused person was unable to provide support.

### **Contributing to the Delinquency of a Minor**

#### **35-46-1-8 Contributing to the delinquency of a minor**

(a) A person at least eighteen (18) years of age who knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act of delinquency (as defined by IC 31-37-1 or IC 31-37-2) commits contributing to delinquency, a Class A misdemeanor.

(b) However, the offense described in subsection (a) is a Class C felony:

(1) if:

(A) the person committing the offense is at least twenty-one (21) years of age and knowingly or intentionally furnishes:

(i) an alcoholic beverage to a person less than eighteen (18) years of age in violation of > IC 7.1-5-7-8 when the person committing the offense knew or reasonably should have known that the person furnished the alcoholic beverage was less than eighteen (18) years of age; or

- (ii) a controlled substance (as defined in IC 35-48-1-9) or a drug (as defined in IC 9-13-2-49.1) in violation of Indiana law; and
- (B) the consumption, ingestion, or use of the alcoholic beverage, controlled substance, or drug is the proximate cause of the death of any person; or
- (2) if the person committing the offense knowingly or intentionally encourages, aids, induces, or causes a person less than eighteen (18) years of age to commit an act that would be a felony if committed by an adult under any of the following:
  - (A) IC 35-48-4-1.
  - (B) IC 35-48-4-1.1
  - (C) IC 35-48-4-2.
  - (D) IC 35-48-4-3.
  - (E) IC 35-48-4-4.
  - (F) IC 35-48-4-4.5.
  - (G) IC 35-48-4-4.6.
  - (H) IC 35-48-4-5.

## **Invasion of Privacy**

### **35-46-1-15.1 Invasion of privacy**

A person who knowingly or intentionally violates:

- (1) a protective order to prevent domestic or family violence issued under IC 34-26-5 (or, if the order involved a family or household member, under IC 34-26-2 or IC 34-4-5.1-5 before their repeal);
- (2) an ex parte protective order issued under IC 34-26-5 (or, if the order involved a family or household member, an emergency order issued under IC 34-26-2 or IC 34-4-5.1 before their repeal);
- (3) a workplace violence restraining order issued under IC 34-26-6;
- (4) a no contact order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-5-6 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;
- (5) a no contact order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion;
- (6) a no contact order issued as a condition of probation;
- (7) a protective order to prevent domestic or family violence issued under IC 31-15-5 (or IC 31-16-5 or IC 31-1-11.5-8.2 before their repeal);
- (8) a protective order to prevent domestic or family violence issued under

- IC 31-14-16-1 in a paternity action;
- (9) a no contact order issued under IC 31-34-25 in a child in need of services proceeding or under IC 31-37-25 in a juvenile delinquency proceeding;
- (10) an order issued in another state that is substantially similar to an order described in subdivisions (1) through (9); or (11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:
- (A) tribe;
  - (B) band;
  - (C) pueblo;
  - (D) nation; or
  - (E) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);
- that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

commits invasion of privacy, a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated conviction for an offense under this section.

## **GUN OFFENSES**

### **Carrying a Handgun Without a License**

#### **35-47-2-1 Carrying of handgun prohibited; exceptions**

(a) Except as provided in subsection (b) and section 2 of this chapter, a person shall not carry a handgun in any vehicle or on or about the person's body, except in the person's dwelling, on the person's property or fixed place of business, without a license issued under this chapter being in the person's possession.

(b) Unless the person's right to possess a firearm has been restored under IC 3-7-13-5 or IC 33-28-4-8, a person who has been convicted of domestic battery under IC 35-42-2-1.3 may not possess or carry a handgun in any vehicle or on or about the person's body in the person's dwelling or on the person's property or fixed place of business.

#### **35-47-2-23 Violations; classes of misdemeanor and felony [for carrying a handgun without a license]**

(c) A person who violates section 1 of this chapter commits a Class A misdemeanor. However, the offense is a Class C felony:

(1) if the offense is committed:

- (A) on or in school property;
- (B) within one thousand (1,000) feet of school property; or
- (C) on a school bus; or

(2) if the person:

(A) has a prior conviction of any offense under:

- (i) this subsection; or
- (ii) subsection (d); or

(B) has been convicted of a felony within fifteen (15) years before the date of the offense.

(d) A person who violates section 22 of this chapter commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior conviction of any offense under this subsection or subsection (c), or if the person has been convicted of a felony within fifteen (15) years before the date of the offense.

**35-47-2-24 Indictment or information; defendant's burden to prove exemption or license; arrest, effect of production of valid license, or establishment of exemption**

(a) In an information or indictment brought for the enforcement of any provision of this chapter, it is not necessary to negate any exemption specified under this chapter, or to allege the absence of a license required under this chapter. The burden of proof is on the defendant to prove that he is exempt under section 2 of this chapter, or that he has a license as required under this chapter.

(b) Whenever a person who has been arrested or charged with a violation of section 1 of this chapter presents a valid license to the prosecuting attorney or establishes that he is exempt under section 2 of this chapter, any prosecution for a violation of section 1 of this chapter shall be dismissed immediately, and all records of an arrest or proceedings following arrest shall be destroyed immediately.

**Unlawful Possession of Firearm by Serious Violent Felon**

**35-47-4-5 Unlawful possession of firearm by serious violent felon**

(a) As used in this section, "serious violent felon" means a person who has been convicted of:

(1) committing a serious violent felony in:

- (A) Indiana; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of a serious violent felony; or

(2) attempting to commit or conspiring to commit a serious violent felony in:

(A) Indiana as provided under IC 35-41-5-1 or IC 35-41-5-2; or

(B) any other jurisdiction in which the elements of the crime for which the conviction was entered are substantially similar to the elements of attempting to commit or conspiring to commit a serious violent felony.

(b) As used in this section, "serious violent felony" means:

(1) murder (IC 35-42-1-1);

(2) voluntary manslaughter (IC 35-42-1-3);

(3) reckless homicide not committed by means of a vehicle (IC 35-42-1-5);

(4) battery as a:

(A) Class A felony (IC 35-42-2-1(a)(5));

(B) Class B felony (IC 35-42-2-1(a)(4)); or

(C) Class C felony (IC 35-42-2-1(a)(3));

(5) aggravated battery (IC 35-42-2-1.5);

(6) kidnapping (IC 35-42-3-2);

(7) criminal confinement (IC 35-42-3-3);

(8) rape (IC 35-42-4-1);

(9) criminal deviate conduct (IC 35-42-4-2);

(10) child molesting (IC 35-42-4-3);

(11) sexual battery as a Class C felony (IC 35-42-4-8);

(12) robbery (IC 35-42-5-1);

(13) carjacking (IC 35-42-5-2);

(14) arson as a Class A felony or Class B felony (IC 35-43-1-1(a));

(15) burglary as a Class A felony or Class B felony (IC 35-43-2-1);

(16) assisting a criminal as a Class C felony (IC 35-44-3-2);

(17) resisting law enforcement as a Class B felony or Class C felony (IC 35-44-3-3);

(18) escape as a Class B felony or Class C felony (IC 35-44-3-5);

(19) trafficking with an inmate as a Class C felony (IC 35-44-3-9);

(20) criminal gang intimidation (IC 35-45-9-4);

(21) stalking as a Class B felony or Class C felony (IC 35-45-10-5);

(22) incest (IC 35-46-1-3);

(23) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);



- (24) dealing in methamphetamine (IC 35-48-4-1.1);
- (25) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (26) dealing in a schedule IV controlled substance (IC 35-48-4-3); or
- (27) dealing in a schedule V controlled substance (IC 35-48-4-4).

(c) A serious violent felon who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a serious violent felon, a Class B felony.

### **35-47-4-6 Unlawful possession of a firearm by a domestic batterer**

(a) A person who has been convicted of domestic battery under IC 35-42-2-1.3 and who knowingly or intentionally possesses a firearm commits unlawful possession of a firearm by a domestic batterer, a Class A misdemeanor.

(b) It is a defense to a prosecution under this section that the person's right to possess a firearm has been restored under IC 35-47-4-7.

## **DRUG OFFENSES**

### **Dealing in Cocaine**

#### **35-48-4-1 Dealing in cocaine or narcotic drug**

(a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or
- (D) finances the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II; or

(2) possesses, with intent to:

- (A) manufacture;
- (B) finance the manufacture of;
- (C) deliver; or
- (D) finance the delivery of;

cocaine or a narcotic drug, pure or adulterated, classified in schedule I or II;

commits dealing in cocaine or a narcotic drug, a Class B felony, except as provided in subsection (b).

(b) The offense is a Class A felony if:

(1) the amount of the drug involved weighs three (3) grams or more;

(2) the person:

(A) delivered; or

(B) financed the delivery of;

the drug to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(3) the person manufactured, delivered or financed the delivery of the drug:

(A) on a school bus; or

(B) in, on, or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center.

### **Dealing in Methamphetamine**

#### **35-48-4-1.1 Dealing in methamphetamine**

Sec. 1.1 (a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

methamphetamine, pure or adulterated; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

methamphetamine, pure or adulterated;

commits dealing in methamphetamine, a Class B felony, except as provided in subsection (b).

(b) The offense is a Class A felony if:

(1) the amount of the drug involved weighs three (3) grams or more;

(2) the person:

(A) delivered; or

(B) financed the delivery of;

the drug to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(3) the person manufactured, delivered, or financed the delivery of the drug:

(A) on a school bus; or

(B) in, on, or within one thousand (1,000) feet of:

(i) school property;

(ii) a public park;

(iii) a family housing complex; or

(iv) a youth program center.

### **Dealing in a Schedule I, II, or III Controlled Substance**

#### **35-48-4-2 Dealing in a schedule I, II, or III controlled substance**

(a) A person who:

(1) knowingly or intentionally:

(A) manufactures;

(B) finances the manufacture of;

(C) delivers; or

(D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, or hashish; or

(2) possesses, with intent to:

(A) manufacture;

(B) finance the manufacture of;

(C) deliver; or

(D) finance the delivery of;

a controlled substance, pure or adulterated, classified in schedule I, II, or III, except marijuana, hash oil, or hashish;

commits dealing in a schedule I, II, or III controlled substance, a Class B felony, except as provided in subsection (b).

(b) The offense is a Class A felony if:

(1) the person:

- (A) delivered; or
- (B) financed the delivery of;

the substance to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(2) the person delivered or financed the delivery of the substance:

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:
  - (i) school property;
  - (ii) a public park;
  - (iii) a family housing complex; or
  - (iv) a youth program center.

### **Dealing in a Schedule IV Controlled Substance**

#### **35-48-4-3 Dealing in a schedule IV controlled substance**

(a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or
- (D) finances the delivery of;

a controlled substance, pure or adulterated, classified in schedule IV; or

(2) possesses, with intent to manufacture or deliver, a controlled substance, pure or adulterated, classified in schedule IV;

commits dealing in a schedule IV controlled substance, a Class C felony, except as provided in subsection (b).

(b) The offense is a Class B felony if:

(1) the person:

- (A) delivered; or
- (B) financed the delivery of;

the substance to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(2) the person delivered or financed the delivery of the substance:

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:
  - (i) school property;
  - (ii) a public park;
  - (iii) a family housing complex; or
  - (iv) a youth program center.

### **Dealing in a Schedule V Controlled Substance**

#### **35-48-4-4 Dealing in a schedule V controlled substance**

(a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
  - (B) finances the manufacture of;
  - (C) delivers; or
  - (D) finances the delivery of;
- a controlled substance, pure or adulterated, classified in schedule V; or

(2) possesses, with intent to:

- (A) manufacture;
  - (B) finance the manufacture of;
  - (C) deliver; or
  - (D) finance the delivery of;
- a controlled substance, pure or adulterated, classified in schedule V;

commits dealing in a schedule V controlled substance, a Class D felony, except as provided in subsection (b).

(b) The offense is a Class B felony if:

(1) the person:

- (A) delivered; or
  - (B) financed the delivery of;
- the substance to a person under eighteen (18) years of age at least three (3) years junior to the person; or

(2) the person delivered or financed the delivery of the substance:

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:
  - (i) school property;
  - (ii) a public park;
  - (iii) a family housing complex; or
  - (iv) a youth program center.

### **Dealing in a Counterfeit Substance**

#### **35-48-4-5 Dealing in a counterfeit substance**

A person who:

(1) knowingly or intentionally:

- (A) creates;
  - (B) delivers; or
  - (C) finances the delivery of;
- a counterfeit substance; or

(2) possesses, with intent to:

- (A) deliver; or
  - (B) finance the delivery of;
- a counterfeit substance;

commits dealing in a counterfeit substance, a Class D felony.

### **Possession of Cocaine**

#### **35-48-4-6 Possession of cocaine or narcotic drug**

(a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses cocaine (pure or adulterated), a narcotic drug (pure or adulterated) classified in schedule I or II, commits possession of cocaine or a narcotic drug, a Class D felony, except as provided in subsection (b).

(b) The offense is:

(1) a Class C felony if:

- (A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or
- (B) the person was also in possession of a firearm (as defined in IC 35-47-1-5);

(2) a Class B felony if the person in possession of the cocaine or narcotic drug possesses less than three (3) grams of pure or adulterated cocaine or a narcotic drug:

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:
  - (i) school property;
  - (ii) a public park;
  - (iii) a family housing complex; or
  - (iv) a youth program center; and

(3) a Class A felony if the person possesses the cocaine or narcotic drug, in an amount (pure or adulterated) weighing at least three (3) grams:

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:
  - (i) school property;
  - (ii) a public park;
  - (iii) a family housing complex; or
  - (iv) a youth program center.

### **Possession of Methamphetamine**

#### **35-48-4-6.1 Possession of methamphetamine**

Sec. 6.1. (a) A person who, without a valid prescription or order of a practitioner acting in the course of the practitioner's professional practice, knowingly or intentionally possesses methamphetamine (pure or adulterated) commits possession of methamphetamine, a Class D felony, except as provided in subsection (b).

(b) The offense is:

(1) a Class C felony if:

- (A) the amount of the drug involved (pure or adulterated) weighs three (3) grams or more; or
- (B) the person was also in possession of a firearm (as defined in IC 35-47-1-5);

(2) a Class B felony if the person in possession of the methamphetamine possesses less than three (3) grams of pure or adulterated methamphetamine:

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:

- (i) school property;
- (ii) a public park;
- (iii) a family housing complex; or
- (iv) a youth program center; and

(3) a Class A felony if the person possesses the methamphetamine in an amount (pure or adulterated) weighing at least three (3) grams:

- (A) on a school bus; or
- (B) in, on, or within one thousand (1,000) feet of:
  - (i) school property;
  - (ii) a public park;
  - (iii) a family housing complex; or
  - (iv) a youth program center.

### **Possession of a Controlled Substance**

#### **35-48-4-7 Possession of a controlled substance; obtaining a schedule V controlled substance**

(a) A person who, without a valid prescription or order of a practitioner acting in the course of his professional practice, knowingly or intentionally possesses a controlled substance (pure or adulterated) classified in schedule I, II, III, or IV, except marijuana or hashish, commits possession of a controlled substance, a Class D felony. However, the offense is a Class C felony if the person in possession of the controlled substance possesses the controlled substance:

- (1) on a school bus; or
- (2) in, on, or within one thousand (1,000) feet of:
  - (A) school property;
  - (B) a public park;
  - (C) a family housing complex; or
  - (D) a youth program center.

(b) A person who, without a valid prescription or order of a practitioner acting in the course of his professional practice, knowingly or intentionally obtains:

- (1) more than four (4) ounces of schedule V controlled substances containing codeine in any given forty-eight (48) hour period unless pursuant to a prescription;
- (2) a schedule V controlled substance pursuant to written or verbal misrepresentation; or
- (3) possession of a schedule V controlled substance other than by means of a prescription or by means of signing an exempt narcotic register



maintained by a pharmacy licensed by the Indiana state board of pharmacy;

commits a Class D felony.

### **Possession of Drug Paraphernalia**

#### **35-48-4-8.3 Possession of paraphernalia**

(a) A person who possesses a raw material, an instrument, a device, or other object that the person intends to use for:

- (1) introducing into the person's body a controlled substance;
- (2) testing the strength, effectiveness, or purity of a controlled substance;
- or
- (3) enhancing the effect of a controlled substance;

in violation of this chapter commits a Class A infraction for possessing paraphernalia.

(b) A person who knowingly or intentionally violates subsection (a) commits a Class A misdemeanor. However, the offense is a Class D felony if the person has a prior unrelated judgment or conviction under this section.

(c) A person who recklessly possesses a raw material, an instrument, a device, or other object that is to be used primarily for:

- (1) introducing into the person's body a controlled substance;
- (2) testing the strength, effectiveness, or purity of a controlled substance;
- or
- (3) enhancing the effect of a controlled substance;

in violation of this chapter commits reckless possession of paraphernalia, a Class B misdemeanor. However, the offense is a Class D felony if the person has a previous judgment or conviction under this section.

### **Dealing in Marijuana**

#### **35-48-4-10 Dealing in marijuana, hash oil, or hashish**

(a) A person who:

(1) knowingly or intentionally:

- (A) manufactures;
- (B) finances the manufacture of;
- (C) delivers; or

(D) finances the delivery of;  
marijuana, hash oil, or hashish, pure or adulterated; or  
(2) possesses, with intent to:

(A) manufacture;  
(B) finance the manufacture of;  
(C) deliver; or  
(D) finance the delivery of;  
marijuana, hash oil, or hashish, pure or adulterated;

commits dealing in marijuana, hash oil, or hashish, a Class A misdemeanor, except as provided in subsection (b).

(b) The offense is:

(1) a Class D felony if:

(A) the recipient or intended recipient is under eighteen (18) years of age;  
(B) the amount involved is more than thirty (30) grams but less than ten (10) pounds of marijuana or two (2) grams but less than three hundred (300) grams of hash oil or hashish; or  
(C) the person has a prior conviction of an offense involving marijuana, hash oil, or hashish; and

(2) a Class C felony if the amount involved is ten (10) pounds or more of marijuana or three hundred (300) or more grams of hash oil or hashish or the person delivered or financed the delivery of marijuana, hash oil, or hashish:

(A) on a school bus; or  
(B) in, on, or within one thousand (1,000) feet of:  
(i) school property;  
(ii) a public park;  
(iii) a family housing complex; or  
(iv) a youth program center.

### **Possession of Marijuana**

#### **35-48-4-11 Possession of marijuana, hash oil or hashish**

A person who:

(1) knowingly or intentionally possesses (pure or adulterated) marijuana, hash oil, or hashish;  
(2) knowingly or intentionally grows or cultivates marijuana; or

(3) knowing that marijuana is growing on his premises, fails to destroy the marijuana plants;

commits possession of marijuana, hash oil, or hashish, a Class A misdemeanor.

However, the offense is a Class D felony (i) if the amount involved is more than thirty (30) grams of marijuana or two (2) grams of hash oil or hashish, or (ii) if the person has a prior conviction of an offense involving marijuana, hash oil, or hashish.

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